











Digitized by the Internet Archive  
in 2022 with funding from  
University of Toronto

<https://archive.org/details/31761114669997>







R-21



R-21

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 3 November 1993

**Standing committee on  
resources development**

Subcommittee report

Chair: Bob Huget  
Clerk: Tannis Manikel



# Journal des débats (Hansard)

Mercredi 3 novembre 1993

**Comité permanent du  
développement des ressources**

Rapport de sous-comité

Président : Bob Huget  
Greffière : Tannis Manikel





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 3 November 1993

The committee met at 1628 in committee room 1.

## SUBCOMMITTEE REPORT

**The Acting Chair (Mr Paul Klopp):** Are we ready to go? I'm subbing for Bob Huget.

**Mr Jim Wiseman (Durham West):** You're the guest host.

**The Acting Chair:** I'm the guest host.

We had a subcommittee report. I'll read the subcommittee report and then we'll vote on its support, I hope.

"The subcommittee met on November 1 and 3 to discuss the agenda for Bill 80.

"The subcommittee recommends:

"That the hearings start on Monday, November 15, 1993;

That on the 15th, the minister, the ministry and the Liberal critic have 30 minutes each for statements and questions;

"That Joe Maloney of the building and construction trades union be scheduled on the 15th for one hour;

"That the PC critic have 30 minutes on the 17th for a statement and questions;

"That the presenters have 30 minutes for presentations;

"That the clerk will request that groups make joint presentations, if possible;

"That the deadline for requests to make presentations be on Monday, November 15, 1993."

That's the final date we'll accept presentations.

**Mr Wiseman:** Just on a point of clarification, in the first part you said that the minister and the ministry will have half an hour. Is that each or is that total?

**The Acting Chair:** Each.

**Mr Wiseman:** Okay. So collectively it's an hour.

**The Acting Chair:** Yes, if they choose to use it all.

**Mr Steven W. Mahoney (Mississauga West):** Presumably that would include questions to either during that time. So if the minister makes a 10-minute statement, we could ask questions about his statement for up to half an hour and have him respond?

**The Acting Chair:** Yes.

**Ms Sharon Murdock (Sudbury):** Why would you?

**Mr Mahoney:** I don't know that we would, but I'm

just saying you'd have a maximum of 30 minutes where the minister would either address the committee or we could ask questions or you could ask questions for clarification, and then the ministry would be the same thing.

**Mr Wiseman:** And in the spirit of collegiality, the time would be split equally among the three parties?

**Mr Mahoney:** I don't have a problem with that; the Tories won't be here that day.

**The Acting Chair:** There will be presentations.

**Mr Mahoney:** I guess there'll be somebody here, yes.

**Ms Murdock:** There would be no objection, I guess; I don't know. Maybe if the minister and the ministry made it and then used the balance to address the questions to either one? Do you know what I mean?

**The Acting Chair:** I think that's understood. They have up to an hour. The minister can do whatever he wants in that hour. That's my understanding. There'll be talking back and forth, questions, right? I think that's the understanding.

**Ms Murdock:** My understanding was that the minister would use whatever portion of the half-hour and then the questions would be directed to the minister. Then the ministry would use whatever portion of the half-hour and the questions would be directed to the ministry. My thought was that you would have both of them make their presentations and then use the balance of time to direct your questions to both.

**The Acting Chair:** I think that's the interpretation. It read that way, but that's the interpretation we all can agree on, what you just stated.

Then clearly the Liberal critic has 30 minutes in which he can make statements and questions above and beyond the potential hour there.

Okay, are there any other clarifications? Could I have somebody move adoption?

**Mr Wiseman:** I'll move it.

**The Acting Chair:** All those in favour? Unanimously supported.

Any other business? Then this meeting stands adjourned. Thank you all very much for your time.

The committee adjourned at 1632.

## CONTENTS

Wednesday 3 November 1993

Subcommittee report ..... R-505

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chair / Président suppléant:** Klopp, Paul (Huron ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

Fawcett, Joan M. (Northumberland L)

Jordan, Leo (Lanark-Renfrew PC)

**\*Murdock, Sharon** (Sudbury ND)

Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

**\*Waters, Daniel** (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)

Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer

Wiseman, Jim (Durham West/-Ouest ND) for Mr Huget

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Anderson, Anne, research officer, Legislative Research Service



CA20N  
XC13  
-576

Government  
Publications

R-22



R-22

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 15 November 1993



# Journal des débats (Hansard)

Lundi 15 novembre 1993

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

Labour Relations Amendment Act, 1993

Loi de 1993 modifiant la Loi  
sur les relations de travail

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



# LEGISLATIVE ASSEMBLY OF ONTARIO

R-507

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 15 November 1993

The committee met at 1549 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

**The Acting Chair (Mr Paul Klopp):** Ladies and gentlemen, we'll call this meeting of the standing committee on resources development to order to talk about Bill 80, An Act to amend the Labour Relations Act. Everybody has the agenda in front of them. We have representatives here from all three parties. We'll have opening statements by the Honourable Bob Mackenzie, Minister of Labour, then the deputy minister, Mr Thomas, and then opening statements by member Steve Mahoney, the official opposition critic, and then this afternoon we also have the Canadian building trades department here. Mr Minister, take it away.

MINISTRY OF LABOUR

**Hon Bob Mackenzie (Minister of Labour):** My presentation will be relatively brief, the deputy will go into a little more of the detail and then we'll hear from the other parties and the first of the delegations before us.

**Mr Steven W. Mahoney (Mississauga West):** Point of order: It's just a question. I noticed the minister working from notes and I wonder if there's a prepared text that might be made available to the members.

**Hon Mr Mackenzie:** I haven't got extra copies with me but we can get them to you very quickly. This is quite short.

I am pleased to take this opportunity to launch this period of public review on Bill 80. I believe that this legislation will promote fairness and balance in the relationships between internationally based parent unions in the construction industry and their Ontario-based locals. This bill reflects the government's commitment to give workers a greater say in the workplace.

For many years now, Ontario-based construction locals have called for greater control over their affairs. They have raised concerns about the powers of international parents when the parent disagrees with local decisions. There have also been concerns raised about the sometimes arbitrary and unjustified punitive actions a parent can take against individuals and locals.

Throughout my years as Labour critic and now as the Minister of Labour, I have heard concerns from a number of locals about the powers enjoyed by international construction unions. Elected Canadian local officials have often expressed that this makes it difficult to represent the wishes of their members, particularly when the concerns of the local run counter to policies and practices of the international union.

As you will no doubt hear from presenters, these

problems are acute in the construction industry, where all of the major unions in Ontario are chartered affiliates of the international unions. As the committee members will know, the Labour Relations Act contains special rules for the construction sectors because of the distinct features of the industry. These rules are unique to construction and were developed to promote stability in an industry with unstable employment and high mobility.

Under the Labour Relations Act, international unions and their provincial councils are officially designated as exclusive bargaining agents for province-wide bargaining in the industrial-commercial sector or ICI sector. These special rules, combined with closed-shop provisions that tie employment and benefits to the union rather than to the employer, make it extremely difficult for construction workers to exercise their democratic rights without paying a potentially high price.

Bill 80 is designed to correct some of this imbalance by safeguarding the right of local unions to act in the best interests of their members without fear of reprisal.

Since this bill was introduced over a year ago, there have been numerous consultations with international unions, local union representatives and employers in the construction industry. My office has been involved in discussions with the provincial building trades council and the Canadian construction department of the AFL-CIO. These consultations and discussions resulted in my announcement of a number of proposed amendments to the bill at second reading.

The two major areas of concern that have been raised revolve around the disaffiliation provisions and the provisions dealing with local jurisdiction. As I indicated at the beginning of second reading debate, the government is proposing to remove the disaffiliation provisions and to modify the absolute prohibition on parental alteration of local jurisdiction.

These amendments reflect the concerns raised by parties while retaining the key objectives of fairness and balance to this sector. The government will be introducing these amendments later in this committee's proceedings during the clause-by-clause debate of the bill. The government looks forward to hearing the committee's recommendations following the public hearings and is prepared to make further amendments to the bill based on these recommendations.

In closing, I would like to say that I believe this bill is about balance and fairness. This bill should mark a positive step forward for workers in the construction industry. Our ultimate goal is to enact a law that brings a sense of balance and fairness into the relationship between local unions, their members and their international parents. The government thinks that Bill 80 follows the progressive spirit and tone of the major labour reforms we have already introduced.

I want to thank the committee for its time and attention

today, and I look forward to seeing the results of its hard work on this important piece of legislation.

**The Acting Chair:** We now have the Deputy Minister of Labour here to make comments to update us on the bill.

**Mr James R. Thomas:** I propose today to give you a technical briefing on Bill 80, and I do have a text that I would be happy to hand out to people if people wish to follow along with it.

**The Acting Chair:** Sure, if you have that here.

**Mr Thomas:** I'll just wait for that to happen. I also have staff here with me from the Ministry of Labour. If I need them to help with some of the questions, I'll introduce them at that time.

As members of the committee will know, the minister announced an intention to amend the bill at second reading, and during the course of consultation, the government developed some ideas on possible alternatives and some draft language was circulated prior to second reading to give members of the House an indication of where the direction of possible amendments lay. However, no formal amendments have been prepared. After the public hearings are concluded, formal motions to amend the bill will be tabled by the government for the clause-by-clause work of the committee.

None the less, the ministry wishes to advise this committee of the proposals for amendments that are under consideration and I will review some of those proposed changes later in my remarks. It is our hope that presenters to this committee and the committee itself will consider not only the first reading version of the bill but also the possible amendments to the bill that the government is considering.

I propose to provide you with the following: First of all, a general overview of the five major provisions of Bill 80 at first reading; secondly, a general overview of the government's proposed amendments to Bill 80; and thirdly, a clause-by-clause technical analysis of the first reading version of Bill 80.

Let me start with the general overview of the bill's five major provisions. The first reading version of the law provides new rights for Ontario construction local unions in five areas:

(1) Local unions will share bargaining rights with parent trade unions in all construction sectors covered by the Labour Relations Act, just as bargaining rights are shared in the industrial, commercial and institutional sector;

(2) Parent unions may not alter the jurisdiction of a local union without consent;

(3) Parent unions are prohibited from imposing trusteeships or otherwise interfering with local unions without just cause;

(4) All of the local unions within a particular trade may disaffiliate from a parent union with the consent of the parent union;

(5) Local unions may appoint trustees for benefit plans that govern their members.

Let me give you some detail with respect to each

point. First of all, on shared bargaining rights: Section 138.2 deems that local trade unions will share bargaining rights wherever an international union now exercises bargaining rights on behalf of the local trade union. Currently, an international union is able to assert control over collective bargaining in Ontario in the non-ICI sectors.

The construction industry is divided into seven sectors: ICI, residential, roads, sewers and watermain, electrical power systems, pipelines and heavy engineering. Shared bargaining rights are already guaranteed in the ICI sector by virtue of ministerially designated employee bargaining agencies. There are also some shared rights in non-ICI sectors. Bill 80 would guarantee shared bargaining rights in all cases.

Because the ministry was concerned that this new rule of shared bargaining rights might disrupt collective bargaining with employers, section 138.2 provides a mechanism to ensure resolution of disputes between a parent union and its locals over how to share bargaining rights. This mechanism is modelled on the existing province-wide bargaining scheme in the Labour Relations Act. In that part of the act, construction unions in the ICI sector must bargain on a trade-by-trade basis through employee bargaining agencies which are designated by the Minister of Labour. There is a single agency for each ICI trade and each agency is made up of the international parent union and a council representing all its provincial locals.

Under the section 138.2 scheme, the minister could require that internationals and their locals form a similar type of bargaining structure where the parties cannot work out a shared bargaining structure on their own.

The second part is prohibition on alteration of local jurisdiction. In the first reading version of Bill 80, section 138.3 prohibits parent trade unions from altering the jurisdiction of any of their local trade unions in Ontario without the consent of those local trade unions.

Nothing in Bill 80 affects the processes for resolving intertrade disputes between different unions. Section 138.3 simply gives more protection to locals within the same union.

The section also provides that local trade unions may agree to a role for the parent trade union in resolving disputes between them. If they make such an agreement, the parent would be permitted to alter local unions' jurisdiction to the extent necessary to resolve the dispute between the locals.

Finally, the ministry was concerned that the act should provide for some dispute resolution mechanism in the event that Ontario local unions do not agree to permit the internationals to resolve their disputes through alteration of local union jurisdiction. Accordingly, the bill allows an affected union or employer to apply to the Ontario Labour Relations Board to resolve an interlocal dispute. Accordingly, there would be recourse for an employer whose project was disrupted because of a dispute between local trade unions.

You should also note that section 138.4 would ensure that local unions could not use the new provisions



regarding shared bargaining rights and protection against alteration of local jurisdiction to upset existing province-wide bargaining schemes.

**1600**

The third area is imposition of trusteeships and other interference. Section 138.5 would apply a just-cause standard to international unions if they imposed trusteeship upon a local union or otherwise interfered with a local union.

An example of interference other than formal imposition of supervision or trusteeship might be the international appointment or assignment of a business agent or some other official to the staff of a local union. Another example might be a requirement by an international that a local union assign the international control over its funds.

Section 138.5 also imposes a just-cause standard upon international unions or provincial councils of unions that dismiss or impose other penalties on local union officials. In addition, the first reading version of the bill requires that the international or provincial council must continue to pay wages to a dismissed or penalized local union official until the labour board orders otherwise.

This section of the bill also states that the board is not bound by the union constitution when determining what constitutes just cause.

The fourth area is successorship by local trade unions. Section 138.6 of the bill would permit all of the local unions of a particular trade to disaffiliate from an international parent union. The section sets out a process by which a double majority must be obtained. A majority of all of the locals involved plus a majority of all members in the province must support such disaffiliation. Finally, no disaffiliation could take place without the consent of the parent union. However, the labour board would be able to declare a successorship if it concluded that the true wishes of the members could not be ascertained because of a union or employer's conduct.

The last area is administration of benefit plans. In this section, Ontario local unions are given control over the appointment of union trustees to boards of trustees that administer pension or benefit plans affecting local members.

If a pension or benefit plan mainly provides benefits to the members of one local union, then that local union is guaranteed the right to choose the majority of union trustees. If a pension or benefit plan covers a number of local unions, then those local unions together are entitled to appoint a majority of the union trustees. In the case of these multilocal plans, the provisions in section 138.7 go on to provide that local trade unions each have a vote concerning appointments of trustees.

Finally, the section provides for a six-month transition period during which the new appointment rules must be met.

The second area I wish to cover is the government proposals for amendments to the first reading version of Bill 80.

As noted earlier, the government is considering a number of amendments to the bill as a result of sub-

missions made during consultations. I want to cover those very briefly: first of all, the alteration of local jurisdiction, and these are proposed amendments which I want to take you through.

The first reading version of this alteration of local jurisdiction provision prohibits a parent union from altering a local's jurisdiction without consent. Next to the disaffiliation provisions, this section of Bill 80 appears to have caused the greatest concern among international unions.

We heard during consultations that parent unions can play a legitimate and necessary role in making jurisdictional determinations. As a result, the government is prepared to change the alteration of local jurisdiction provision to permit alterations where just cause exists. For example, the provision might be amended to require that a parent trade union apply to the Ontario Labour Relations Board for permission to alter the jurisdiction of a local trade union. If there is just cause for such an alteration, the board would authorize the action.

In determining what constitutes just cause, the government proposes that the board would be required to consider the following factors: (1) the union's constitution; (2) the ability of the local to carry out its responsibilities under the Labour Relations Act; and (3) the wishes of the members of local. The government hopes that international unions that make submissions here will comment on these proposals.

Secondly, on the imposition of trusteeship or other interference with locals, the amendment that we're suggesting would be as follows: The first reading version of the bill would require that parent unions continue to pay the wages of dismissed or penalized union officials until the Ontario Labour Relations Board determines otherwise. The government proposes to drop this requirement.

Additionally, the government proposes to amend these provisions to require that the board, when determining what constitutes just cause, must first consider the provisions of the union constitution. However, the union constitution would not be the sole determining factor when the board decided whether the parent union had just cause for its action.

The third amendment that the government is proposing is in the area of successorship and the government proposes to delete those provisions in their entirety.

The fourth is the administration of benefit plans. The government recognizes that it's not appropriate that Ontario local unions would be entitled to appoint a majority of trustees in a nationwide or international benefit plan. Instead, the provisions would be amended to clarify that Ontario locals may choose trustees in numbers proportionate to their members' numbers in the total plan.

Finally, in terms of proposed amendments, a general one: In addition, the government proposes that the bill should provide for expeditious labour board resolution of proceedings under Bill 80. New rules were brought in under Bill 40 to permit the board to develop special rules to expedite the handling of intertrade jurisdictional and other disputes. That part of the LRA, the process part,



would be amended to permit the board to adopt similar speedy rules for Bill 80 proceedings.

Let me, as the third part of my technical briefing, take you through a clause-by-clause analysis of first reading version of Bill 80. You may wish to follow along with your copies of the bill. Let me start from the beginning of it, section 138.1, definitions in the application of Bill 80.

Subsection 138.1(1) sets out a number of definitions that would apply in addition to the special list of definitions already contained at the start of the construction part of the Labour Relations Act. The most important one is the definition of "jurisdiction."

The definition of "jurisdiction" is important for the later section which governs the authority of a parent union to alter the jurisdiction of a local union. The government's intent is to protect the local from unilateral alterations of its geographic, work or sectoral jurisdiction.

Geographic jurisdiction refers to the physical boundaries within which an international permits its locals to operate.

Sectoral jurisdiction refers to the specific sectors of the construction industry that are defined in the definition of "sector" in the existing section 119 of the Labour Relations Act. The LRA sets out seven different sectors, which I mentioned earlier.

Work jurisdiction refers to the jurisdiction that a local union might hold with respect to an area of construction work that is something less than one of the statutorily designated sectors. For example, some local unions are assigned jurisdiction to bargain for hydro employees; hydro is just one part of the electrical power systems sector. There are other types of work jurisdiction that do not clearly fall within any particular designated construction sector; for instance, landscaping.

It is important to note that neither the definition of "jurisdiction" nor the provisions governing the international's authority to alter jurisdiction are intended to affect current procedures for resolving intertrade jurisdictional disputes. The Labour Relations Act, section 93, already governs these matters. Bill 80 deals only with disputes within the same union.

Subsection 138.1(2) provides that the new rights and obligations set out in Bill 80 override any other rights and obligations described elsewhere in the Labour Relations Act.

Subsection 138.1(3) provides that Bill 80 rights and obligations prevail over international union constitutions. This general provision is necessary since not all provisions of Bill 80 expressly address the issue of international unions' constitutions. The rule in this subsection will govern such provisions.

For example, an international union constitution could contain a provision requiring that the international will control local bargaining rights. This subsection 138.1(3) ensures that the new shared bargaining rights provisions will prevail over such constitutional rules. Similarly, international constitutions might give the international the exclusive right to choose benefit plan trustees, and this subsection ensures that the new Bill 80 rules will prevail.

## 1610

Section 138(2), shared bargaining rights: That's the first substantive piece of Bill 80. Subsection 138.2(1) is intended to provide that the new shared bargaining rights provisions only apply in the non-ICI sectors. Shared bargaining rights are already guaranteed in the ICI sector through ministerially designated employee bargaining agencies. With Bill 80, shared bargaining rights would be statutorily guaranteed for the other six sectors. The subsection is worded so as to ensure that the new rule also applies with respect to bargaining units that perform work that may not clearly fall within one of the six enumerated sectors. Subsection 138.2(2) provides that a local trade union is deemed to share bargaining rights wherever an international holds bargaining rights on behalf of a local union's members.

Subsection 138.2(3) states that a local trade union is deemed to be a party to a collective agreement wherever a parent union is now the sole party to a collective agreement that governs members of the local union.

It should be noted that the definition of "parent union" in section 138.1 includes not only international unions but also provincial councils of unions. As a result, the shared bargaining rights provisions give local unions rights not only where internationals hold exclusive bargaining rights, but also where provincial councils of trade unions hold exclusive bargaining rights.

Subsections 138.2(4) to (6) set out a mechanism to resolve disputes that might arise between parent unions and local unions as a result of the new rule requiring the sharing of bargaining rights. This responds to employers' concerns that the normal process of collective bargaining with internationals might be disrupted by Bill 80's shared bargaining rights provisions.

Where an international and its locals are unable to decide on how they will jointly bargain in such circumstances, these subsections provide a mechanism whereby the minister could intervene to ensure that there was no disruption of collective bargaining.

The mechanism we're talking about for the minister is based on existing mechanisms in the province-wide bargaining part of the Labour Relations Act. In that part, which governs the ICI sector, the minister has the role of assigning bargaining rights to employee bargaining agencies. Employee bargaining agents are councils of unions that consist of the international, the provincial conference or council, and local unions. Under these new subsections, the minister could order that the international and its locals form a council similar to an employee bargaining agency if they're unable to reach their own arrangement on how to share their bargaining rights.

Section 138.3, prohibition on alteration of local jurisdiction: Again, just to be clear, I'm taking you through the first reading, clause-by-clause of Bill 80, not the proposed amendments that I've already talked about.

Subsection 138.3(1) prevents a parent union from altering the geographic, work or sectoral jurisdiction of the local union without consent. The provision is retroactive to prevent alteration of jurisdiction as it existed on May 1, 1992.

Subsection 138.3(2) creates an exception to the absolute prohibition. If two local unions of the same parent agree to permit their parent union to resolve a jurisdictional dispute between the two of them, the international union may alter the locals' jurisdiction to the extent necessary to resolve the jurisdictional conflict.

Subsection 138.3(3) creates an avenue to resolve interlocal disputes within the same trade in the event that the disputing locals do not agree to let their parent resolve the dispute. For example, an employer might be unable to continue work on a particular project that falls on the boundary line between two locals of the same trade union if the two locals each demand the right to assign workers. Subsection (3) permits the employer to apply to the OLRB to resolve the dispute between the local unions.

The subsection goes on to import the powers and procedures that the labour board has under the Labour Relations Act, section 93, which governs intertrade disputes. Those new procedures have greatly speeded up the resolution of intertrade disputes, cutting lengthy hearings to one day of informal consultations. The government proposes to amend these provisions to permit a parent to alter a local's jurisdiction if just cause exists.

Section 138.4, province-wide bargaining: Section 138.4 provides that province-wide bargaining arrangements that existed on May 1, 1992, may not be disrupted as a result of the new provisions for shared bargaining rights or protection of local union jurisdiction.

Section 138.5, imposition of trusteeships and other interference: Section 138.5 prevents parent unions from imposing trusteeship or supervision or otherwise interfering with local unions unless just cause exists. This provision protects the autonomy of local unions.

Subsection 138.5(2) prevents parent unions from dismissing or otherwise penalizing union officials without just cause.

Subsection (3) permits the board to look beyond the provisions of the trade union constitution when determining what constitutes just cause. Accordingly, an international cannot impose trusteeship or dismiss a local union official and rely solely on the provisions of its constitution when arguing that its action was taken for just cause. In other words, the international cannot point to its union constitution as a complete defence for its action. The government proposes to amend this section to clarify that the board is required to consider the union constitution.

Subsection 138.5(4) provides that a dismissed local official is entitled to continue to receive wages until his or her case has been finally disposed of, unless the labour board orders otherwise. As I mentioned earlier, the government proposes to drop this requirement.

Subsection (5) describes the remedial authority of the board in relation to the imposition of trusteeships or other interference with a local union. In particular, the board could make orders permitting or preventing the continuation of a trusteeship.

Section 138.6, successorship by local trade unions: Subsections (1) to (5) set out the process by which all of the local trade unions of a parent union might disaffiliate

from the parent union. Disaffiliation would include either separation from the international union to form a new, independent union or merger with another existing union. As I've already mentioned, the local unions would have to reach a double majority of local unions and of individual members across the province.

Subsection (6) provides that no disaffiliation can occur unless the parent trade union approves the disaffiliation.

Subsection (7) would permit the board to order successorship if it considered that the true wishes of locals or members are unlikely to be ascertained because of unfair labour practices.

Subsection (8) ensures that the successor union acquires all of the rights, privileges and duties that the parent would have held in respect of the disaffiliated locals.

Subsection (9) would permit merger with unions other than construction unions.

As I mentioned, the government is proposing to drop the successorship provisions in their entirety.

Section 138.7 is the administration of benefit plans, and that's the last substantive section. Construction industry collective agreements provide for the creation of a number of welfare plans through employer or joint employer-employee contribution. Such plans are often administered jointly and trustee'd by the union and employers with joint boards of trustees to administer and oversee the plans. In jointly administered plans, the unions and employers appoint an equal number of trustees whose role is to protect the interests of the plan's members.

Subsection 138.7(1) ensures that if a benefit plan provides benefits mainly to members of one local, then the local is entitled to appoint a majority of the union-side trustees.

If a benefit plan covers a number of local unions, subsection 138.7(2) ensures that those locals are "entitled together to appoint...a majority" of the union trustees. The government is proposing to amend the provision to clarify that in the case of national or multiprovincial plans Ontario locals would be entitled to a proportionate number of trustees in relation to their representation in the plan rather than a majority.

Subsection (3) provides that Bill 80's provisions governing the selection of benefit plan trustees prevail over any contrary provision. For example, they would override any contrary provision in a benefit plan document.

Subsection (4) sets out a process to govern the appointment of trustees for multiunion benefit plans. Unless the locals agree otherwise, they will be required to select their trustees through a majority vote. Each local union would get one vote.

Subsection (5) provides a six-month transition period during which the new appointment rules must be complied with.

Finally, subsection (6) defines the types of plans governed by this part of Bill 80. An employment benefit plan includes a pension or benefit plan and any other plan



that provides benefits because of one's employment or because of one's membership in the union. Thank you.

**The Acting Chair:** Thank you, and you can have a glass of water now. We'll open it up for questions and I'll go in the order of Liberals, Progressive Conservatives and then the NDP.

1620

**Mr Mahoney:** I'm assuming, Mr Chair, that we are now in a position of talking about this bill as it is being proposed to be amended and there's no restriction on discussing, questioning or debating any of the amendments that were put forward, unlike the debate on second reading.

**The Acting Chair:** I think that's—

**Mr Mahoney:** Is that clear? My concern is that we were provided the amendments. The deputy referred to, "During the course of consultations, the government developed some ideas on possible alternatives and some draft language was circulated prior to second reading...." It was 10 minutes prior to second reading debate when that stuff was circulated and then we were told we couldn't debate it.

**The Acting Chair:** Okay. It's now in the committee. Proposed amendments have been talked about. Everybody knew about them. They can be talked about, as far as I understand.

**Mr Mahoney:** A couple of questions to the deputy: Your first point, "Local unions will share bargaining rights with parent trade unions in all...sectors...." What happens now outside—

*Failure of sound system.*

**The Acting Chair:** The deputy has requested that staff come to the microphones up here in case there's some technical information that he would like you to answer. Could they come to the mike, please, or up to the table.

Go ahead, Mr Mahoney. Your light's on.

**Mr Mahoney:** All set?

**The Acting Chair:** Yes, they seem to be.

**Mr Mahoney:** My question to the deputy is with regard to sharing bargaining rights or not sharing bargaining rights. Can you tell me what the practice is now? I'm not so much concerned about whether or not it's written down anywhere, but about what, in your experience, really happens in that regard.

**Mr Thomas:** My understanding is that the practice varies from sector to sector and from bargaining table to bargaining table. In some situations, depending on the way in which the particular organization got certified, there may be shared bargaining rights in many cases and in some there aren't shared bargaining rights, but I think it varies from sector to sector and table to table.

Can I also indicate for the record that I've asked Catherine Laurier and Pauline Ryan, who are policy analysts with the Ministry of Labour, to join us, if they wish to add to that?

**The Acting Chair:** Okay. Introduce yourself and then answer the question, if you can.

**Ms Pauline Ryan:** I'm Pauline Ryan. I'm a policy

adviser with the Ministry of Labour. I don't think I could add much more to what the deputy has said, other than to say that the bargaining rights right now in the non-ICI sector are generally outlined in the collective agreement. In some cases, it's shared rights between signatories, both the international and the local are signatories to the collective agreement, and in other cases it's solely an international that has signed the agreement.

**Mr Mahoney:** Are there cases where it's solely a local?

**Ms Ryan:** There may be.

**Ms Catherine Laurier:** Yes.

**Ms Ryan:** I couldn't give you an example.

**Mr Mahoney:** Do you know of any examples?

*Interjection.*

**Mr Mahoney:** He's got his hour coming. He'll get his shots in.

**Ms Sharon Murdock (Sudbury):** He might be able to answer your question.

**Mr Mahoney:** You don't think I know the answer?

**The Acting Chair:** Now, now. You have only a couple of minutes each, so—

**Mr Mahoney:** Yes. That's what I wanted to ask you. How much time do we have?

**The Acting Chair:** The Liberal critic ends at 4:30. We're going to start with him.

**Mr Mahoney:** I'll leave that then, because I have a couple of other more technical ones, if I could just get to them.

The issue of just cause and the fact that a board is not bound by the union constitution: I wonder if the deputy would expand on that a little bit. First of all, the definition of "just cause": Is that going to be something the minister will simply rule on, the board will rule on? Are there going to be criteria or rules drawn up that will make that clear to everyone? The top of page 5 is what I'm working from in your report.

**Mr Thomas:** You're referring to just cause as it pertains to the imposition of trusteeships or other interference, which is a matter that would be determined by the labour board, and so it would be the jurisprudence of the labour board that would determine what constitutes just cause.

**Mr Mahoney:** Without guidelines being set up or agreed upon or brought down from the ministry?

**Mr Thomas:** There already is jurisprudence in general around just cause. I don't know whether it would be necessary or advisable to have guidelines on just cause.

**Mr Mahoney:** Notwithstanding the fact that you're deleting the disaffiliation section, what would happen if local members, by a vote, decided they wanted to disaffiliate from an international parent or council of some sort? Would that be something you would see the government normally interfering in?

**Hon Mr Mackenzie:** Not if I can help it.

**Mr Mahoney:** Not if you can help it, but you don't mind interfering from the other angle of going in and



precluding votes and telling them—

**Hon Mr Mackenzie:** No, I think we're trying to set in place provisions where, through the board, they can raise concerns or raise the issue of just cause. If you're asking me if I'm intending to set down the guidelines, not if I can help it.

**Mr Mahoney:** But my question was more related to a local or a group of locals—take the electrical workers. They get together and decide, as has happened in recent history in industrial unions, the auto workers being one, that they simply want to set up their own operation and disaffiliate from any international union they may or may not be involved with. They want to run their own shop. Is that something this government would interfere in or condone or not condone?

**Hon Mr Mackenzie:** I don't think the purpose of the legislation—if you're asking this, and it may not be the proper answer to what you're looking for—is to run the show for the local unions. It is to set down certain rules and regulations under which they'll operate and to make sure there is a procedure, a process for workers who want to raise some concerns about whether or not there is just cause in an action that's been taken by their union.

**Mr Thomas:** I think one of the concerns, Mr Mahoney, is the fact that it's our understanding that a number of the international constitutions have clauses that are very restrictive on the ability of members of local unions in Ontario to do the kind of thing you're talking about doing. It's that kind of situation that Bill 80 is trying to address.

**The Acting Chair:** On that note, we're going to move on. But they think that if they shut the whole issue down here, they can fix it in about a minute. So I'm going to ask that we just stop for a minute while they see if they can fix this mike problem.

**Ms Murdock:** It won't be taken off your time.

**The Acting Chair:** It won't be taken off your time.

*The committee recessed from 1629 to 1630.*

**The Acting Chair:** Okay, everybody. That was the shortest minute in history. I think we're ready to go. We are running a little bit behind so I'm going to call the meeting back to order again. The mikes seem to be on. Mr Turnbull, if you wouldn't mind, if you have one question I'd appreciate it and then I'll allow one or two very short ones from the other side, but very quickly. I want to get Mr Mahoney on and then we do have some people here.

**Mr David Turnbull (York Mills):** Minister, specifically, and going back to when you introduced this legislation in June of last year, my colleague Mrs Witmer has asked on many occasions specifically what the demonstrated need is for the legislation. We don't feel we've got a satisfactory answer for that. Could you respond to that now?

**Hon Mr Mackenzie:** You may not get a satisfactory answer now either, but the demonstrated need for the legislation is a request that reached me in a period of some 11, 12 years as opposition critic in the House.

**Mr Turnbull:** From whom?

**Hon Mr Mackenzie:** From building trades people who arrived in my office from a number of the different locals in considerable numbers with complaints.

**Mr Turnbull:** Can you be specific, please?

**Hon Mr Mackenzie:** I don't intend to be specific. I think the building trades people themselves will go into some of the details when they appear before the committee.

**Mr Turnbull:** Whom have you consulted with, leading up to this legislation?

**Hon Mr Mackenzie:** We did not go through an extensive consultation process, to begin with—I'm going back a year or two now. However, it was apparent and it was outlined at both the last two provincial building trades council's conventions—and in addition to that I've had most of the gentlemen who are in this room and a good number of others on both sides of the issue into my office a number of times and I've had my own staff and the ministry staff talking with them as well.

**Mr Turnbull:** Okay. For the record, whom have you consulted with?

**Hon Mr Mackenzie:** I can't name you all the individuals, but just about—

**Mr Turnbull:** Name a few.

**Hon Mr Mackenzie:** Just about the entire gamut of the building trades group.

**Mr Turnbull:** Okay, so we've got two very, very fuzzy answers which are about as unsatisfactory as your answers in the House, Minister.

**Hon Mr Mackenzie:** You never liked my answers in the House.

**Mr Turnbull:** That's true, but, nevertheless, I'm asking you in committee specific questions and we're getting these fuzzy—

**Hon Mr Mackenzie:** And my specific answers are that there have been extensive discussions on this with both sides of the issue in the building trades.

**Mr Turnbull:** You won't name any of the names and you won't tell us who has asked for this legislation. That's most enlightening.

**The Acting Chair:** Sharon has a question. Mr Mammoliti is first, though, I believe, and we have about five minutes for each caucus.

**Mr George Mammoliti (Yorkview):** Very, very quickly, and my question is to the minister or to the staff, whoever would feel comfortable answering this.

A number of unions have approached me individually and have given me what they think is a huge concern in terms of what this would do in the way of a precedent. When I talk about precedent I talk about government precedent. If this were passed, what would this do for future governments, perhaps? If possible, can you give me a legal opinion on whether or not future governments might have a precedent set perhaps interfering with union constitutions? Does the minister feel comfortable with the bill going through and, more specifically, will this set a precedent for future governments to interfere with the constitutions?

**Hon Mr Mackenzie:** I personally don't think it will set a precedent any more than we've had for interference in a number of labour issues over the years. We were trying to do away with some of that in part of the Bill 40 procedures as well, and we were trying to guarantee that there were adequate rights for workers and the local unions in the legislation. I don't think it'll set any precedent. I'm comfortable with it, if that's what you're asking.

**Mr Mammoliti:** Are you comfortable because we've sought a legal opinion on this from the ministry?

**Hon Mr Mackenzie:** I'm sure our actions are legal. I have not been told otherwise in terms of the legislation itself at all.

**Mr Mammoliti:** Does the staff know of any legal opinion that may have been sought in this regard?

**Mr Thomas:** No. We know there have been some concerns raised about some possible violations of ILO convention, but our view is that, first of all, we're not going to comment on that.

Secondly, it seems to me that there are some features of collective bargaining that are unique to the construction industry that have created situations this bill attempts to address.

**Ms Murdock:** Any of the questions that go to the OLRB are complaint-driven. I am wondering, on page 6 when you're talking about the amendment that's coming forward and that the provision might be amended to require that a parent trade union apply to the OLRB for permission to alter jurisdiction, if you have looked at the reverse of that and, rather than having internationals each and every time apply to the OLRB, staff shortages as they are, whether or not it would be more in tune with the OLRA to do it from a complaint-driven aspect.

**Mr Thomas:** You're asking, are there other processes that could accomplish the objective of allowing the parent trade union to alter the jurisdiction in certain circumstances? To answer that question, I don't believe that the government is wedded to any particular solution or any particular process to get to the end result of recognizing the fact that there are circumstances we have heard through consultations where parents can play an important role in making jurisdictional determinations. The proposal around amending that section is to allow that to happen somehow. We just suggested one possible way of doing it. There could be others.

**Ms Murdock:** Okay, cause I know absolutely that it happens that internationals often—or not often, but on occasion—do alter jurisdictions. But it seemed to me, when I was looking at that before, that it would then mean that on each and every alteration the parent would have to apply, whereas it would make more sense that if the local didn't like what the parent was doing, then they could apply to the board for review. Then you wouldn't have each and every one of them being done; you'd only have the ones that the locals didn't like. That's just the point I wanted to make.

**Mr Thomas:** Let me just respond to that. Just to be very clear, the only point that I was trying to make on page 6 was the fact that because of the concerns that

we've heard through consultation that the parent union can play an important role in some circumstances, the government has felt it appropriate to recommend that there be an amendment to allow that to happen somehow. My comments that are captured on page 6 were simply an attempt to describe one way in which that could happen. We would hope that people who present to the committee over the next period of days would want to comment on whether that or other ways would be more effective in accomplishing the objective.

**Hon Mr Mackenzie:** There have been one or two other suggestions in the same area, but this was the one that we had come up with in the draft. I presume we'll hear in the course of the hearings if somebody's got a better idea.

**The Acting Chair:** Seeing that we're moving along here, we can now move to the opening statements of Mr Steve Mahoney, the official opposition critic for the Liberal party. You have half an hour, which is—as you can see, it's about 25 to 5, so about five after. You can have questions, comments, whatever; you've got the floor.

**Mr Mahoney:** First of all, let me say that I appreciate the brief report by the minister and the technical briefing by the deputy. I will have some comments and perhaps some questions where I might want the deputy during my half-hour to respond, but we'll see how things evolve.

First of all, let me tell you that in bringing this issue to our caucus, it's one of those that is very complex and everyone's eyes sort of glaze over as you try to present a briefing and they go, "What is all this about?" So it tends to get short shrift at times, I think, when it really shouldn't. On the statement made in the beginning that—the minister referred to this; I wrote it down somewhere—he's delighted to be here at a public review of Bill 80: The reality is, the public doesn't much care about Bill 80. They don't understand it. To the public, which I say generically, this is just sort of some internal battle in government bureaucracy where politicians and bureaucrats are wasting time. I'm not so sure that the public's perception is not the correct one in this particular case.

1640

But this is not a public—as I see it in a generic sense—issue. It's an issue where interest groups, primarily the labour movement in the construction sector, have a direct interest with the government interfering in their organization.

Mr Mammoliti asked a very interesting question that really says to me that this is not going to end at this committee, it's not going to end on third reading or even proclamation of this bill, all of which I say to my friends in the room is a foregone conclusion, frankly. I don't mean to discourage you. I know you're here with the hope that this government might listen to some of the balanced viewpoints that you're going to put forward. But at the end of the day, in the short three years of the NDP government, it's been my experience that when they have an agenda and they're on a rail and they're going down the line, it's very, very difficult to get them to stop the train or to listen or to make changes. Again, I don't mean to discourage you from making your presentations in an



open way, but I'm not overly optimistic that it's going to have an impact. But we will all try.

Mr Mammoliti made the reference to the legal challenges or concepts. I want to read something that I have here. This is Convention 87, Article III of the International Labour Organization's resolution out of Geneva. Think of the ILO like the GATT when you think in terms of settling disputes on an international scale. Think of them in terms of looking at fights between countries over trade issues. The ILO is set there really to bring some calm to the labour movement internationally and to put in place on a broad scale—you know, we all get so myopic. We all think in terms of what's going on in our backyard in our community. It's the ILO's job to do exactly the opposite of that and to think of the greater good for the international community.

Some of you may know that my dad was heavily involved in the ILO, spent many times as a member of the board and spent a lot of time in Geneva. Major union leaders today are heavily involved and so they should be.

As I talked to Shirley Carr just a couple of weeks ago about this to get her perspective, I really think they try to look out and say, "We don't want to be so biased, that everything doesn't revolve around what happens just in Ontario or just even in Canada, for that matter." The ILO is set to try to bring some calm and some broad thoughts to labour disputes.

I want to read the quote. This is right from Convention 87. It says, "Workers and employees associations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs." It goes on to say, "The public authorities shall"—not may, shall—"refrain from any interference which would restrict the right or impede the lawful exercise thereof."

It doesn't talk about defining something like just cause in a dispute. It's very clear. In an unusual twist of fate, an international body has written something in the simplest language anyone could ever possibly wish it to be written in: "the public authorities—ie, the government. Who else could they be referring to? "Shall refrain" means, stay out of their business—"from any interference which would restrict the right or impede the lawful exercise thereof."

I submit that this document is going to lead to a major court challenge. It may not even be right away, because the reality is, you're trying to fix something that ain't broke.

We've asked for examples, and what do we get? We get one story about something that went on in London years ago that apparently has been resolved in any event. We've asked for examples. I hear we're going to get examples at this committee and that the reason we haven't had examples before is that the locals who want to complain about interference and bully tactics from an international are afraid to complain.

If you want to make something of a public concern, then show us an example like that, and I would dare say that you'd have both opposition parties lining up to say

that that kind of stuff should not take place.

We've said, "Name names; give us examples." We don't get them. So I predict that what you're heading for, and the unfortunate part of it is it's a matter of energy, is a major confrontation. You talk about a future government, Mr Mammoliti, and I think that's very appropriate.

**Mr Mammoliti:** I'm afraid of yours.

**Mr Mahoney:** Ours will probably be there, but in any event, a future government is in fact going to be faced with a difficult decision. Actually, it won't be that difficult. We'll just repeal it.

Are we going to spend tens of thousands of dollars, hundreds of thousands of dollars, in going to court under a challenge under the ILO convention? Because indeed that's what we're going to be facing. It is so clear-cut. It says you've got no business interfering, that these people have the right to draw up their constitution and rules, elect their representatives in full freedom, organize their activities and their administration to formulate their program.

Why don't you just let them do that? If you see that there's a problem, why would you not play the role as a government of mediator, if indeed you see there's a problem, and call these people together, instead of going through this incredible exercise of trying to justify?

Let's go back. I wouldn't ask the government members to show any kind of perspective or balance on legislation during the term that we were the government. Let me tell you that the labour bills that we dealt with were things like Bill 208 and Bill 162.

We took the Workers' Compensation Board. Whether you agree with what happened in Bill 162 or not, it's interesting now that the member for—I'm not sure what Ms Martel's riding is; Sudbury, whatever—was a strong opponent of Bill 162. I don't hear that any more. I hear sort of a different song now that she and her colleagues are in government. We were concerned about injured workers and the impact that they were having and whether or not they were getting service delivery, and felt that workers' compensation needed some revisions.

God knows, it needs it more drastically today than it needed it then. God knows that it's in total disarray, on the verge of financial collapse. There are calls for a royal commission. There are questions virtually every day about the governance of workers' compensation, about the ability of the chair, the bias perhaps, all kinds of issues that should be brought out on the table. If in fact those criticisms are not justified, then it should be proven that they're not justified.

You talk about Bill 208. We've got a Workplace Health and Safety Agency that's totally going around terrorizing the business community instead of trying to work with it.

We dealt with labour issues. The former government before us dealt with labour issues. There's no question that labour is a major constituency in the province, not only politically but for everybody, and we dealt with those issues. Those issues are not resolved.

I would have hoped that we could have taken the energy of the unions and the associations that are



involved with representing those unions, be it the trades council, be it the Canadian Federation of Labour, which I spent a couple of hours with in Ottawa the other day, be it any of those umbrella groups, and we could have allowed them to put their energy into perhaps negotiating better working conditions or better health and safety conditions or things that really matter to the men and women involved in the labour movement, not this tinkering and internal labour politics of getting involved and deciding whether or not an international union should have certain rules or certain power over a local union, or whether or not a local union should be able to stand up and flex its muscles and wrap itself in the flag for some perceived nonsense that it's being beaten up by a bunch of Yankees.

The key to the relationship between the international labour movement and any local, whether it's in an industrial union or whether it's an—and that's an interesting point, one that many of the people in the construction sector have been asking: "If this is so good for the construction unions, why don't we bring it in for the internationals?"

1650

I heard the other day that someone was actually getting Leo Gérard nervous because he thinks that might happen. I can understand why he'd get nervous; he's going to be working out of Pittsburgh in the not-too-distant future and he wouldn't want to have any of his powers taken away from him by the current government. So Leo'd better be nervous, because the reality is that I think it may expand to that.

But the question has never been answered. I remember that the very first question that I heard asked on this was exactly that to the minister in the Legislature: If it's good for the construction sector, why isn't it good for steel, auto, mining, whatever? Why isn't it good for the industrial sector? And we can't get an answer on that.

I think we heard the real answer behind what's being driven here. The minister said that in his many years as a critic in opposition he heard from many people. So the reality is, this is simply driven by the minister and his perception of what problems might be out there from his days as a critic. I don't see anything else. We've asked for it and it hasn't come forward.

There is a role in opposition, which the current minister knows full well, that you just almost automatically oppose something a government is doing. We didn't do that in this case; we really didn't. We looked at this; we met with groups on both sides of the issue. There's a lot more on the other side, on the side against it, than there is in favour, which raises an interesting point.

The minister said, and I wrote it down, that we see this as "a positive step forward." If this is such a positive step forward, why are 80% of the people involved against it? I don't understand that. If there was such great democracy instituted in consulting with all these people, why won't the minister answer Mr Turnbull and just name some names?

I guess maybe the problem is your definition of consulting. I saw the minister talking in the hall to Joe

Maloney. Is that consulting? I kind of overheard the conversation. It was: "How's it going?" "Not bad so far." Is that consulting? Consulting means taking down—I mean, look at the documentation that we've got here, the briefs. You're going to hear from the Canadian Federation of Labour. You're going to hear from all of these different groups. Guy Dumoulin and Joe Maloney are going to lead off for an hour in the beginning. You've got a huge brief here.

Why do we have to get to the stage where we're in a sort of public forum here, where all the decisions have already been made? You've gone as far as you're prepared to go and tabled some amendments, and these people have got to spend countless hours putting together these incredible briefs to try to show a balance when what they really want, Minister, is they want you to withdraw the bill and live by the ILO convention and stay the hell out of their affairs. That's what they really want.

If there are disputes, if there are problems, no one would object—I wouldn't object—to sitting down with the people who are having these disputes and finding out how we can resolve those concerns. I can see how maybe in the trade labour movement, and I said—you know, I was in St Catharines, the minister will recall, and I'm sure with some trepidation he and others saw me invited to the microphone. But frankly I said that I don't question the minister's commitment to the labour movement in general. I know his background and I don't question that. I know he's dedicated to that. What I question is his judgement, the judgement in this particular case of going against ILO conventions, of interfering in a democratic process that's in place where those problems can be resolved. It's absolutely Big Brotherism within the labour movement.

Why not tackle the real problems of public policy? If in fact you're so proud, I say to the minister of the health and safety agency, why not bring that forward in a committee like this and let's attack the real problems there?

If we in opposition are so wrong about those issues, tear us apart on them. Take your best shot. Open season. Instead, we have to get involved in internal union fights. It's just very, very hard to understand why.

The powers of international parents in labour relations, it's interesting. International unions, for years, you wonder why anybody would be involved. I mean, we're Canadians; we can stand on our own. What's the point? In the construction industry, I think it's obvious; certainly, in many of the industrial industries, in steel it's obvious. We live in a global marketplace and have for years. If you go down to the Ohio Valley, all of the steel producers down there and everything, there's a lot of commonality, and there's strength in numbers. If a Bob White comes along and decides that he, for whatever reason, wants to lead his men and women out of the international union and form his own union in auto, God bless. There was a process by which he was able to do that, and I support that.

I asked the question at the beginning: What would you do if a local or a group of locals decided to vote to leave

an international or to change their own constitution in some regard? Would you interfere in that? I didn't get an answer, but I suspect the answer is no. So the question has to be asked: If you don't interfere in that kind of a process, what makes you think you can or should interfere the way you're doing it in Bill 80?

**Shared bargaining rights:** I've talked to the people. I understand that's the practice today. I can't imagine today where a local that had some concerns would go to the international and say, "We have concerns on a local basis, and we want to be involved." They are involved. That's the way business is done in the international trade-labour movement today. These are not unsophisticated people. This is not the 1930s and 1940s, when you were just concerned about people getting ripped off from unscrupulous employers who didn't even understand things like holiday pay or sick pay or any of those kinds of things.

This is a very modern time in labour relations. Companies understand today the significance of health and safety legislation, and they understand the importance of having less lost time due to illness and due to accidents in the workplace, because it affects the bottom line. I don't care what their motivation is. Their motivation may indeed be profit, it may be growth of the company, but the bottom line is that they understand it and they agree with it. You don't have to shove it down their throats.

**Unions today:** Talk about the relationship in international unions and megaprojects. You're going to hear from Jim McCamby of the CFL, the Canadian Federation of Labour, about the impact that legislation like this could have on megaprojects. I'm talking about Ontario Hydro, Hydro-Québec projects, billions of dollars at stake over many, many years.

There has to be some forum. What happens now is that in many cases the union will come in and offer a no-strike, no-lockout agreement. It could be for the duration of the project. It could last 10 years. There has to be the ability to be able to do that. There has to be the ability to have a referee. Up to now, an international has played that role.

If I saw this as some need to exert our Canadian identity in the trade labour movement, maybe I'd understand that. I just don't see that as a requirement. People in the labour movement don't even see that as a requirement. Is this just more empowerment? I go back to my friend Gérard's comment the day the deal was signed on Algoma and his quote that I always found so incredible, "This is a great day for worker control." Not a great day for the future of the Sault or for Algoma or a great day for the labour movement or a great day for labour-government relations or a great day for Algoma Steel or a great day for the men and women who work there; this is a great day for worker control.

That kind of mentality, frankly, has really come to light during the term of this government, the fact that the government would find, instead of dealing with reforms to health and safety in a positive way and settling down the relationship that has been created between employers and that agency, instead of calming things down and trying to make a bipartite board work when we know it

isn't working, that it has to get involved in amending the Labour Relations Act in Bill 40 and causing even more problems in the business community and in the community at large.

1700

**Mr Mammoliti:** Okay, Steve, just get on with the bill, will you? This is Bill 80 we're talking about.

**Mr Mahoney:** I appreciate your coaching.

Then instead of dealing with 208—

**Mr Mammoliti:** You're getting on my nerves.

**Mr Mahoney:** I'm glad I'm getting on your nerves. Maybe I should get through to some of your common sense, never mind your nerves.

**The Acting Chair:** Let's be nice.

**Mr Mahoney:** Why? Common sense says that we should be dealing with the problems that are broken in this province and not trying to fix the ones that aren't. Health and safety is broken, it's in a disastrous state, and workers' compensation is sure broken, it's in a mess. Yet I see us tinkering around.

I go through the deputy's presentation. There was a section in here—I just find this incredible—on trusteeships and other interference. This section also states that the board is not bound by the union constitution when determining what constitutes just cause. I'm not a lawyer, but I think I could even argue with the ILO convention 87 that this clearly contravenes international law. It is so blatant. How can you say you're not bound by a union constitution? What's the point of having a constitution in place if you're going to pass legislation that will just eliminate that requirement?

Then the next question is that the government says, "Don't worry, it's okay, we've taken out the disaffiliation section." Let me tell you, much of what happens in the province of Ontario does not indeed happen by legislation but rather by regulation. I get very nervous at the thought of a bill being in place that would allow either this minister or a future minister in the cabinet to decide by regulation that they're going to make amendments somewhere down the road that just might allow for this provision to come back in. Clearly, that can happen. We have countless examples. And it's not a partisan statement; it can happen by any government. The fact of the matter is, we are governed by regulations one hell of a lot more than we're governed by legislation.

So you can't just say, "It's okay; they've taken out that worst section of the bill so we don't have to worry about it." Believe me, we have to worry about it. This is not a positive step forward, but this is rather a pandering to a current Labour minister's fantasies about what the problems were, based on what happened when he was the critic in opposition. Maybe there were problems that he and others heard about, but we didn't hear about them. I think the only fair, responsible way to ask anybody to deal with a bill is to bring forward specifics of what those examples are.

**The labour relations board:** Does it not have anything to do? Do they just sit around and drink coffee all day? They don't have any problems? I would have thought that they were very, very busy, that there were all kinds of



things they had to deal with. So we're going to give them some more. Now we're going to get them involved in determining what "just cause" is.

Members on the government side will know better than many members in opposition that there is already in place a dispute settlement mechanism in the construction industry that has been there over 70 years and has worked. It deals with jurisdiction geographically; it deals with jurisdiction from a work perspective; it deals with jurisdiction from a sectoral basis. It works.

The interesting thing is that it's the international that acts as the referee, because it can come in without fear of reprisal, without fear of not being re-elected, because it's not elected by the particular groups that it's settling the disputes of. So if you get the pipefitters and the plumbers fighting with one another, there's a way to solve the problem already. It's there and it's in place. Why not use it? If it needs to be updated—it's been updated periodically; it's been updated on an ongoing basis for years and years and years—why not use the system that's in place today, rather than requiring the labour board, which, as I say, should be, if it's not, busy in dealing with problems that are currently on its plate?

So I must tell you, Minister, we have tried to find some basis, any basis, whereby there was any support available in our caucus for this bill. This is just nothing more than simple meddling by a government that is attempting to pander—

**Mr Mammoliti:** On a point of order, Mr Chair: I have reason to believe that the comments that Mr Mahoney is saying are out of order. If you'll bear with me, I'll—

**Mr Mahoney:** Mr Chairman, he's just trying to take up my time, so stop the clock or else—

**Mr Mammoliti:** On February 2—

**Mr Mahoney:** This is nonsense.

**The Acting Chair:** Just settle down.

**Mr Mahoney:** This is not a point of order. If you can't stand the heat, George, get the hell out of the room.

**Mr Mammoliti:** On February 2, the then Premier of the province, Mr Peterson, wrote to the then Minister of Labour, Mr Ramsay. In the letter, in one paragraph—

**The Acting Chair:** Mr Mammoliti—

**Mr Mammoliti:** —he wrote him, "I am asking you, Mr Minister, to act immediately to stave off the potential takeover of Local 1059 of the Labourer's International."

**The Acting Chair:** Mr Mammoliti, that is an interesting point, but it's not a point of order.

**Mr Mammoliti:** "I urge you to introduce amending legislation to the Labour Relations Act"—

**The Acting Chair:** You've got another 35 seconds of your time.

**Mr Mammoliti:** —"to provide a mechanism by which either the international must justify trusteeship"—

**The Acting Chair:** Mr Mammoliti, please, you have your day.

**Mr Mammoliti:** —"before implementation, or the local can effectively challenge the action in"—

**Mr Mahoney:** Mr Chair, the point is quite clear here. There are other problems. You say I have only 35 seconds.

**The Acting Chair:** An extra 35 seconds.

**Mr Mahoney:** I didn't even get into the Quebec issue. I had the opportunity to meet with Normand Cherry, the Minister of Labour in Quebec. They're very interested in resolving the problems down there. I think the deputy knows—he's talked to their staff—that's an area where we should be concentrating our efforts. If you want to solve problems for workers in the construction industry, then solve the problems in the dispute between Ontario and Quebec.

You could have done that. Instead, you've chosen to meddle in internal union affairs. It's an absolute disgrace. Eighty per cent of the industry is against this and is opposed to this legislation. The reality is that while there will be amendments, because it's not going to be withdrawn, this legislation should be withdrawn to allow us to get on with fixing things that are truly broken in this province in relationship to labour.

**The Acting Chair:** Thank you, Mr Mahoney. Those are the opening statements by the official opposition critic. Just for the record, the clock stopped. If it isn't the mikes, it's the clock. The official time now is about six or seven minutes after 5. If it's okay, we'll have a two-second recess—or is everybody ready to carry on? Everybody's ready to carry on? Okay.

BUILDING AND CONSTRUCTION TRADES  
DEPARTMENT, AFL-CIO, CANADIAN OFFICE

**The Acting Chair:** The next presentation will now be the Canadian building trades department. The executive secretary is here, and the assistant to the executive secretary. Could you please come up and introduce yourselves on the mike so it's officially in Hansard. I notice the clock is working now, but hopefully the mikes will be working too.

You have approximately an hour. If it's okay with everybody, that'll take us a little bit after 6, but if you honourable gentlemen want to leave at 6, I'm sure nobody will disagree either. All right?

Bob Huget is here now, the official Chair, and I'll give it back to him. Things are getting rowdy. It needs a bigger guy up here.

**Mr Mahoney:** It's unfortunate that the minister and the deputy have decided to leave. I would have thought they would have wanted to hear these comments.

**Mr Mammoliti:** We have the parliamentary assistant here.

**The Chair (Mr Bob Huget):** If the committee could come to order, we have witnesses who wish to make a presentation before the committee, and that is the order of business for today, if we could proceed with that. If each of you could introduce yourselves into the microphones and then proceed with your presentation, you have one hour for your presentation. The committee would like a portion of that, if possible, for questions and answers. So proceed at your leisure.



1710

**Mr Guy Dumoulin:** I'd first of all like to thank the committee for giving us a chance to express our concern in regard to Bill 80.

My name is Guy Dumoulin, the executive secretary of the Building and Construction Trades Department, Canadian office. With me is Brother Joe Maloney, assistant to the executive secretary, who will make most of this presentation. I presume all of you met him at least once and I'm aware that Brother Maloney has been involved in this matter since the introduction of Bill 80.

First, I want to take a few moments of our time to introduce the Building and Construction Trades Department and our position on Bill 80.

The Building and Construction Trades Department affiliates 12 international unions, representing more than 400,000 members working in the construction industry in Canada. Our charter in Ontario, the Provincial Building and Construction Trades Council of Ontario, represents more than 100,000 members in Ontario.

The Building and Construction Trades Department was founded on February 10, 1908, an affiliated organization of proud history, stretching back more than 100 years, 100 years of service to the members.

I'm wondering why we even have to be here today. The government has never explained what problem Bill 80 is trying to fix. Our affiliated organization and its members strongly support their organization within the existing structure. If it isn't broken, why try to fix it? So why Bill 80?

At the last building and construction trades Canadian convention, the delegates unanimously opposed Bill 80. At the last two Ontario building and construction trades conventions, the delegates have gone on record opposing Bill 80. The most recent took last month in St Catharines. Of our 12 charter local councils, only one partially supported Bill 80; 13 of 15 trade bargaining conferences opposed the bill, as do the vast majority of local unions.

I think Bill 80 was introduced to satisfy a very small minority within the building trades. In a democracy the majority rules. The government, of all people, should understand what it means, the majority rules.

Bill 80 will set a very dangerous precedent for the labour movement and all other organizations. What I mean by this is that even the political party—our organization with constitution to order its affairs. How would you feel and how would you react if the precedent of Bill 80 was used to attack your rules and bylaws, laws democratically adopted by the members of your organization?

The precedent of government interference in construction union constitutions will, with the stroke of a pen, be applied to all Ontario's unions. Eventually it will spread to other jurisdictions and seriously cripple labour unions. Bill 80 violates our charter of rights, ILO convention and the first nations' treaty rights. Freedom of association is a right far too precious to interfere with.

I want to be very clear. We do not support Bill 80 and we urge you to recommend that the bill be withdrawn. However, having listened to the minister at the last

building trades convention in St Catharines, we were led to believe that it is the strong intention of the government to proceed with the bill.

With this in mind, we, the building trades department, have carefully reviewed Bill 80 and the proposed revisions. Our presentation is the result of a serious review of both documents. We try today to make the best of an unwanted bill.

I want to share with the members of the committee some of my own experience. Coming from another province, I have experienced a similar situation before. When workers fight among themselves, it hurts them, their union, the construction industry and the entire economy. My feeling is that if Bill 80 is adopted, our members in Ontario will face the same kind of conflict I experienced elsewhere.

At this stage, Brother Maloney will now proceed with our presentation. I ask the committee to give it very serious and careful consideration.

**Mr Joe Maloney:** My name is Joe Maloney and I'm the assistant to the executive secretary of the Canadian Building and Construction Trades Department. Before I start today, I'd like to thank the committee for the time, the one hour, because we want to go through most of the things the deputy minister spoke about.

Briefly, just before I get into the nuts and bolts of this whole thing, going back to when this bill was tabled for first reading, and we are hearing these words of consultation today, I want to be clear on the record that this bill was tabled prior to any consultation with the Canadian building trades or the provincial building trades. We only heard about it after the fact and we do have some concerns about that.

We also have other concerns that the application of Bill 80 is only to the construction industry. We wonder why, because there are other international-based unions that are outside the construction industry that this does not apply to. That's a question that still hasn't been answered.

Also, we're very concerned at a precedent that's going to be set of government interference into duly formed constitutions of building and construction trade unions.

The provincial building trades have two resolutions that were adopted at their 35th and 36th conventions respectively opposing Bill 80. The Canadian building trades as well have opposed Bill 80 by way of their convention.

As well, in the brief that you have in front of you, if you look at tab 5, we have filed a complaint with the International Labour Organization. It shows you in tab 5 the actual convention resolution that we feel is being violated and then some letters of documentation back and forth between Mr Dumoulin's office and Geneva.

Having said that, we realize that Bill 80—we've been told, anyway—is a fact of life. It's going to be a reality anyway, if we like it or if we don't like it. Having heard that and having to live with that, I suppose we have to work within the confines of Bill 80.

What I'm going to do is address the remainder of this presentation to the modified version today that was

explained earlier, and that will be, as I know it, in tab 3.

As well, being an umbrella group of the Canadian building trades, we are only going to deal with section 138.2, which is the bargaining rights section; section 138.3, which is the jurisdiction section; and section 138.5, which is the trusteeship section. We will not be dealing with the section on benefit plans as we feel that the different affiliates will be better equipped to deal with that on their individual, separate issues, because of the uniqueness of every affiliate when it comes to its benefit plan structure.

Having said that, I'll take you to tab 1, which is going to be our presentation. We feel that we're coming into this thing on these three sections with a very balanced approach. Even though we are opposed to the bill in its entirety, we understand that we're living in a reality and the reality is we're going to have a Bill 80. So we feel that we should come into this thing with a balanced approach and not a negative approach.

We feel that what we're about to present encompasses what the pro side of Bill 80 has been asking for, we feel that it encompasses what the government's intentions are, and also we feel it's very important that the integrity of our trade union constitutions remain intact. Those are the three issues we are very concerned about, and we come into this thing with a very balanced approach, in our opinion, when I say that.

1720

Now I take you over to section 138.1, which is the definitions section of the legislation. The deputy minister probably clarified it for me in his comments.

If you notice at the top of the page, that being tab 1 on page 3, 138.1(1), the squared-off section at the top is what the proposed revision from the government is, where it says, "Jurisdiction includes geographic, sectoral and work jurisdiction." We had a concern. We didn't know what the word "work" meant in "jurisdiction." We were under the assumption that "work" meant work within a single trade. That was clarified today. We didn't want it to be as a traditional work jurisdiction between two separate crafts. That's already covered under section 93 of the act.

Now that we know that "work" is work within a single craft, we feel that the word "work" could be removed without changing any intention of the legislation, because when you say "work within a single craft" that means work inside a geographic jurisdiction. So what we're saying there is that we feel the word "work" could be removed without changing any intention of the legislation.

The next one, 138.1(3), says, "In the even of a conflict between any provision in sections 138.2 to 138.7 and any provision in the constitution of a trade union, the provisions in sections 138.2 to 138.7 prevail." We find the actual wording, where it says "and any provision in the constitution of a trade union" to be offensive due to the fact that right now, sections 105 and 108 of the Ontario Labour Relations Act give the Ontario Labour Relations Board full authority already to exercise whatever powers it feels it has to exercise in the matter of labour relations.

Also, sections 120 and 121 of the construction industry provisions in the Labour Relations Act already contain conflict language and they don't make any mention of a trade union constitution.

As a matter of house cleaning, we are suggesting that you can remove references to a trade union constitution without affecting the intent of the legislation, but it won't sound so offensive when you specifically zero in on our constitutions. I show you examples of that over in tab 2. There are excerpts from the existing Labour Relations Act, and as I'm going through this thing I will refer to tab 2 and you'll see what I'm talking about.

The next section, 138.2, the bargaining rights section: The question we have here first of all is, does this section apply to all other sectors in section 119 of the Ontario Labour Relations Act? Again, in tab 2 those sections are outlined in the legislation. The deputy minister today mentioned that there are seven sectors in the construction industry, the ICI being one of the sectors, so we know it doesn't apply to the ICI sector. Does that mean it applies to all the other sectors? It doesn't say that clearly. It's ambiguous there. Now, having asked that question, we don't have a general problem with subsections 138.2(1), (2) and (3). We don't have a real problem with them.

If you look over in tab 4, what I give you there and why I say we don't have a problem with that is that you'll see at the top of the page it says, "Non ICI Sector Bargaining Rights." I've done a poll with all the affiliates and the ones that responded are here.

This is the actual day-to-day practice of what happens out there now outside the ICI sector as to who holds the bargaining rights. If you take the operating engineers at the top, in pipeline they're 100% owned by the international but on a day-to-day basis they're jointly administered; the residential sector of the operating engineers, 100% local; sewer and watermain, 100% local; and IBEW, ironworkers, it goes all the way down the line to those. So that's the day-to-day application.

Now, the problem we've got with subsections (4), (5) and (6) is that we feel this is where the minister and the government are starting to interfere in our collective bargaining affairs. We've got no problem, from the international point of view, on sharing bargaining rights, because in our point of view, on a day-to-day practice this is what normally happens anyway, in most cases.

What we're suggesting is to adopt subsections (1), (2) and (3) of section 138.2 but don't force the affiliates to form councils, because what happens when you force them to form councils is that the bargaining rights then will travel through the local and go to a council, and the council and the international will jointly hold the rights. The local itself will not hold the rights.

The minister keeps making reference to the ICI sector, where they currently enjoy these rights, but what happens in the ICI sector is that if there's more than one local union in the province, they're bound to form a council. Those individual locals do not hold the bargaining rights. They're held by the council and the international jointly.

What we're saying here is that as far as we're concerned, the vast majority of bargaining rights outside the



ICI sector are equal bargaining rights. Let's put it in writing—we don't have a problem with that—but don't force the people to form councils. If they want to form councils for the purposes of bargaining, they can do it on their own. They're very mature, educated men and women and they can handle their own stuff that way, but don't force them, because it will only create problems down the road.

Another question I've got: Right now, outside the ICI sector, if we organize a company, we get a board area certification. It could be board area 8 or 4, whatever. If we're forced to form provincial councils, future certifications, would that mean now that we get a province-wide certification on that company, like we do in the ICI sector?

What we're suggesting here, as I mentioned, is that we don't have a problem with adopting subsections 138.2(1), (2) and (3), but we ask that subsections (4), (5) and (6) be deleted. That way the bargaining rights will be shared but they'll be truly shared with the local and the international parent.

I take you over to section 138.3, the jurisdiction section. There was a clarification I was going to ask for but I think it got it answered, that the jurisdiction section should be specific as to geographic within a single craft, keeping away from a traditional jurisdictional disputes, as we know them, between crafts under section 93 of the Ontario Labour Relations Act.

Another problem we've got with section 138.3 and the jurisdiction is that under subsection (2), you're asking the parent trade union to apply. We feel that the remedial treatment in subsection (2) should be complaints-driven, as in the Labour Relations Act now, sections 92, 93, 94, 95 and almost every other area of the act where there's a problem. Again, in tab 2 it says, "on application by." It should be complaints-driven. We don't have a problem with that.

The concerns we have under jurisdiction are that the international parents issue and own the charters of a local lodge and they should retain the authority to alter the jurisdiction. But we agree that there should be just-cause provisions there and the factors should be outlined in the act that must be considered.

1730

We agree, even though we've asked and we haven't got the answers where the arbitrary heavy hand has been, where these things have happened in the past, that nobody should have an arbitrary heavy hand. But we also maintain that decisions have to be made and someone's got to be in charge to maintain, control, structures that we live in.

Section 7 of the Labour Relations Act gives authority to the Ontario Labour Relations Board to merge bargaining units and they set out criteria. Now even though this doesn't apply to the construction industry, it does have a mechanism on how industrial-based unions can merge bargaining units, usually under one roof or whatever, and it sets out criteria. But there's nothing offensive in those criteria like in the suggested language of the government in subsection (3), where they use such words as "We'll

take your constitution into consideration but we're not bound by it."

We find that to be extremely offensive. We already know that the labour relations board has full authority to look at whatever they want to look at anyway, so why do we have to be so offensive in specifically stating that "We'll look at your constitution but we don't have to be bound by it"? Things that go through your mind, "It's a nice cover, thank you, goodbye," who determines this? It could drive you crazy trying to think what could happen.

As I said at the outset, our mission here is to make sure that the integrity of our constitutions are intact after this legislation is proclaimed in law, and the way it's written right now where it says, "must consider but is not bound by," those words are very offensive and would not comply with what we're looking for to maintain integrity of the constitutions.

This wording could be removed and having the section complaints-driven and without any change of the intent of the legislation whatsoever. When I say "complaints-driven"—and I'll get to that in a second—also this would complement the purpose of the Labour Relations Act. If you look at subsection 2.1(4) of the act, it says "Purpose," and I quote, "To provide for effective, fair and expeditious methods of dispute resolution." Now, if that doesn't complement complaints-driven legislation, I don't know what does. So I ask you to look at that.

**Mr Mahoney:** What was that wording again?

**Mr Maloney:** Section 2.1(4), "Purpose of the OLRA: To provide for effective, fair and expeditious methods of dispute resolution."

**Mr Mahoney:** Thank you.

**Mr Maloney:** Now, I take—

*Interjection.*

**Mr Maloney:** Pardon me. If I didn't know you so well, Sharon, I'd be wondering.

**Ms Murdock:** No, I wasn't talking to you.

**Mr Maloney:** This is like a union meeting of sorts, you know.

**Mr Mahoney:** No beer.

**Mr Maloney:** That's after the meeting. Sometimes before the meeting.

I take you over to page 8. Our suggested language for section 138.3 will, in our view, cause the least amount of damage to the construction industry, and I'll quickly read it out.

Subsection 138.3(1): "A parent trade union shall not alter the jurisdiction of a local trade union, whether established under constitution or otherwise, as the jurisdiction existed under on the first day of May, 1992, unless there is just cause for the alteration."

Subsection 138.3(2): "Despite subsection (1), on application"—please, this is the important one—"by the local trade union, the board may review the alteration of the jurisdiction of a local trade union to determine if there is just cause for the alteration."

Subsection 138.3(3): "In an application relating to this section, the board may take into account such factors as



it considers appropriate and it must consider the following factors when determining what constitutes just cause:

"1. the provisions of the trade union constitution;

"2. the alteration would enhance viable and stable collective bargaining and servicing." By the way, item 2 is already in section 7 of the Labour Relations Act in merging of bargaining units. By the way, item 2 is already in section 7 of the Labour Relations Act, merging of bargaining units;

"3. the ability of the local trade union to carry out its responsibilities under this act, and

"4. the wishes of the members of the local trade union."

Now, if you look under the government's three factors it put in there, we've got no problem with their three factors and we've put in the fourth factor that's already in section 7 of the Labour Relations Act. The only change here is that it's complaints-driven and there are just-cause provisions, but we've taken out the words that are offensive, "is not bound by."

Also, in section 92.2 of the Labour Relations Act, they have language there for expedited hearings. We don't have a problem with expedited hearings under this if the local applies to the labour relations board that its jurisdiction has been altered in an arbitrary or heavy-handed way. You know, you have a hearing within 14 days, 10 days, whatever you think is fair.

That's not a problem, because for the amount that this thing happens out there—we don't know where the examples are where it has happened, so all we can say is we think this would be fair and balanced to everybody concerned. The just cause would be there for the people who feel they need protection, the government's intention would be there on giving that protection, plus the integrity of the constitutions would remain in place for the international parents.

Having said that, I take you over to page 9, 138.5, the trusteeship section. This one here is a beauty. We have some concerns with this one, first of all in subsection 138.5(1). Could somebody please tell us what "otherwise interfere with a local trade union directly or indirectly in such a way that the autonomy of the local trade union is affected" means? Could somebody tell us what that means, because we don't know.

We feel that lacks definition, and if there's just cause put in this section, and I'll explain it in a moment, this again very offensive language could be removed without affecting any of the intent of the legislation whatsoever.

Part of the problem with that specific wording is that no representative of the international parent union would know if they're acting legally or illegally in Ontario. If they are taken to the labour board, the board would have to make that determination. They'd be handcuffed. They wouldn't know what to do on a day-to-day basis when they're working with the locals.

The legislation is offensive again by suggesting that the Labour Relations Board can ignore constitutions with the words "not bound by" in subsection (3).

Already in section 84 of the Labour Relations Act

there's a review process for trusteeships. When you place a local under trusteeship, you've got to file on the board's prescribed forms that you have put one under trusteeship. I don't know; I've never seen one of those forms, but I would assume you'd have to state your reasons why, and after one year of a trusteeship being imposed, you have to go there and ask for an extension.

Trusteeships in construction locals are only imposed by way of a constitution. No Canadian director or international representative can just come in and say: "I don't like you because you wear blue suits on Tuesdays. You're under trusteeship." It's done under the terms of the constitution; something's been violated there. When you put a local under trusteeship, that is the very, very end of the day. After you've exhausted every other avenue you have and the trusteeship has to be imposed, it's the end of the day.

#### 1740

I'll take you to a nasty little story that took place in Toronto here not long ago when some of the elected officers of Iron Workers Local 721 were arrested. It was all over the news. It didn't look good for the labour movement and the members were crying that they wanted the Labour minister himself to put the local under trusteeship. Those people, I can tell you, went to court. They were all cleared 100%. They are all back at work now, but the international or anybody didn't put them under trusteeship. These things aren't taken lightly and we suggest you should not take them lightly.

I take you quickly over to tab 6. There are some quick facts there. There are 146 locals represented by the Building and Construction Trades Council in Ontario. From 1985 to 1992, there were six supervisions and one trusteeship imposed: seven occurrences in seven years that we're aware of. In 1984, the most up-to-date CALURA report states that there were 10 trusteeships: two by construction unions, two by government unions and six by industrial unions. There is no difference between construction unions and industrial unions in terms of trusteeship provisions in their respective constitutions.

I also put at the bottom here, because we've studied them, the New Democratic Party has provisions for discipline both federally and provincially in their own constitutions, as I'm sure the Tories and the Liberals have as well.

I take you over to the next page on that one.

**Mr Mammoliti:** And the Liberals are perfect.

**Mr Mahoney:** We don't need it.

*Interjections.*

**Mr Maloney:** They're right on Bill 80 so far.

**Mr Mahoney:** Did you guys hear that? They said we were right on Bill 80.

**Interjection:** So are we.

**Mr Maloney:** So are the Tories, that's right.

I take you over to the next page, which says "Building Trades Trusteeship Provisions." Here are excerpts from their constitutions, and those photocopied excerpts are in

here as well. We've got the carpenters, boilermakers, bricklayers. It says who has the authority and what happens when a trusteeship is being imposed: the appeal procedure, the hearings that take place and different things along those lines.

If you keep flipping over, I've even put in there non-building trades trusteeship provisions. The CAW, CUPE, Public Service Alliance, Steelworkers and again—sorry, I should have got the Liberals and the Tories to put in here too, but there are excerpts there from the NDP constitution, article 15, discipline. I don't want to pick on the NDP, but—

**Mr Mahoney:** Why not?

**Ms Murdock:** Everybody else does.

**Mr Maloney:** —you are the government and it is your bill.

The point I'm trying to get through here is that all unions, whether they be construction unions, industrial unions, political parties, have provisions for discipline in their organization. They have a structure in place, and what we're saying is that constitutions should not be treated as lightly as this legislation is attempting to treat them.

I'll give you one more thing and again I apologize. I even take you to an article in the Toronto Star of November 3 where your leader, Premier Rae, refers to his constitution. These things are in place for a reason and for legislation to say, "We'll look at your constitution but we're not bound by it," we can't accept. It is very offensive and we ask that that wording be removed. This is when they were talking about a leadership review.

**Mr Mammoliti:** That's not past tense, by the way.

**Mr Mahoney:** I was hoping for you, George.

**Mr Len Wood (Cochrane North):** The federal Tories had a leadership review.

**Mr Mammoliti:** I'd do about as good as you did, Steve.

**Mr Maloney:** Once again I say that the constitutions are there for a reason and trusteeships are only imposed by way of a constitution. We also agree that nobody should have an arbitrary heavy hand over anybody else and there should be just-cause provisions in place and there should be checks and balances in place if there's going to be a trusteeship imposed.

We feel that a trusteeship again should be complaints-driven, and I take you over to page 10 of our brief, on tab 1, where I say, "This suggested language for subsections 138.5(1), (2) and (3) will, in our view, cause the least amount of damage to the construction industry:

"138.5(1) The parent trade union or a council of trade unions shall not, without just cause, assume supervision of a local trade union.

"138.5(2) The parent trade union or a council of trade unions shall not, without just cause, remove from office, change the duties of or impose a penalty on an elected or appointed official of a local trade union."

Subsection 138.5(3) we took directly from Bill 84 of British Columbia where they deal with matters of a trade union.

"In an application relating to this section, the board must first consider the provisions of a trade union constitution when determining what constitutes just cause, keeping in mind that every person has a right to the application of the principles of natural justice in respect of all disputes relating to: (a) matters in the trade union's constitution; and (b) discipline by a trade union."

As I said, we agree nobody should have an arbitrary heavy hand over anybody else. We don't know where these trusteeships have been imposed arbitrarily. We've looked inside our organizations. We know there have been some problems down in the London area that have been resolved, and I'm sure you're going to hear some of the stories as delegations go through here.

But what I ask you to do when these delegations go through here is to ask each and every one of them specifically, can they live with complaints-driven legislation as we've set it here, where there's a structure in place and there's a protection in place if they feel they've got to be protected? Just ask them, and if they say no, ask them why, because I think you'll find out, if the answer's no, that person or whoever they're purporting to represent probably has a hidden agenda of some sort. You've got to get to the facts in this and get away from the hidden and personal agendas and get down to what's really necessary for the construction industry.

Having said that, those are the three issues we're dealing with. As I said at the beginning, we felt that we should come in here with a very fair and balanced approach. We feel that the legislation should be complaints-driven. We've dealt with the bargaining rights where we don't mind sharing bargaining rights because that's the day-to-day practice now. Let's put it in writing but let's not force the organizations to form councils, because the locals will not get the bargaining rights; they'll go to a council.

The jurisdiction and the trusteeship sections: We're asking that offensive wording such as "not bound by" be removed, those types of words, and that the legislation be complaints-driven.

Having said that, all I can say in conclusion, before we get into questions, is that Bill 80 has been a very divisive bill within the construction industry. People have taken positions on both sides of the issue. I know friends have argued tooth and nail over it for years and years and years. We'd just like this thing to be done with and get it put on the back burner somewhere so we can get on with doing our jobs. The people we're supposed to be representing out there are not being represented when we're arguing with each other day in and day out over Bill 80. We've got bigger fish to fry out there and we'd like to get on with doing that job.

So we ask you to please consider our proposals, consider our amendments and once this thing is behind us, we can all get on with what we're supposed to be doing and that's servicing the membership. Thank you.

**The Chair:** Thank you very much. We started the testimony of this particular witness at 5:10. To complete the full hour and allow for questions, if there's unanimous consent we'll sit to 6:10, which will give about five minutes per caucus for questions. Agreed? Agreed.



**Mr Mahoney:** Thank you very much to both Guy and to Joe for this. I know there have been a lot of people who have put in a lot of hours, blood, sweat and tears over this bill and I know that you and your organization have led the way in many areas. I think you have presented a very balanced presentation. While I understand that your preference would be to have the bill withdrawn, as it would be mine, the reality is that it's not likely to happen, so I think you've put forward some very responsible positions.

1750

I would like to officially ask, I guess, to the parliamentary assistant that before these hearings are over we get a written response to the amendments that are put forward by this organization from the ministry of either acceptance, and if it's acceptance, then that would be accompanied by an amendment, or if it's not acceptance, then perhaps the opposition will be putting these forward as amendments. Even though we're not in support of the bill, we've got to try to work something out. So I hope we would get that.

To Mr Dumoulin, I'd like to ask you this. You referred to fighting among each other and problems that you encountered in other jurisdictions, be it—I'm not sure where; Alberta, perhaps, other places. Could you give us some examples? I don't know if this is civil war or what it is, but what happens out there internally within the brothers and sisters when they get into disputes, and what are you worried about?

**Mr Dumoulin:** First of all, it's not the province of Alberta; it's the province of Quebec. You must have guessed this.

**Mr Mahoney:** Yes.

**Mr Dumoulin:** I have to tell you, then, that when you have a problem with a jurisdictional dispute within a job site, it does create major problems. If you have a different avenue to try to resolve these issues, which could be a provincial avenue or the international avenue, it does create a big problem, because which one are you going to choose? If the work doesn't belong to your trade, you're certainly going to go to the provincial avenue because you know in advance the decision you'll get from the international structure or the plan for the settlement of jurisdictional disputes.

When I say workers fight among themselves, I saw it personally. I saw it on a big site; I saw it at Seven Islands. I saw it at Murdochville and I saw it at a lot of places where there was a major project, and it's not nice to see. When you say war, sometimes it might look like a war when you get to these sites.

I don't think there's any problem in the construction industry in the province of Ontario, but with legislation like this, you could create these types of problems. When the situation happens to be the way it is now within the construction industry where there's not that much work, I tell you one thing: You really fight for what belongs to you and maybe try to steal a little bit from another trade. These are the types of things that could occur with such legislation there. That's what I'm scared of.

**Mr Mahoney:** Let me ask you, though: Do you feel

that the dispute settlement mechanisms that are in place now, the document that's been in place for seven years that gets used, simply will solve those disputes even though there's not a lot of work to go around?

**Mr Dumoulin:** As a matter of fact, we've put it together in Canada. It's going to apply in Canada and the decision will take place in Canada.

**Mr Mahoney:** So you're drafting your own documents?

**Mr Dumoulin:** It's already done. It's already been approved and it's all ready. All we have to do now is decide on the date that it's going to be applied.

**Mr Mahoney:** Who approved it?

**Mr Dumoulin:** It's approved within the structure of the international. This came out of a resolution of our last two conventions, the Canadian building trades conventions, requesting that we put in place a mechanism to resolve the jurisdictional dispute which the owners, the contractors, were complaining about. So we did this and it's in place now and it's called—

**Mr Mahoney:** Is it approved by the members, Guy? Sorry to interrupt you, but I want to—

**Mr Dumoulin:** It's approved by the members through the convention of each organization. Each organization has their convention every four or five years.

**Mr Mahoney:** And they voted on this?

**Mr Dumoulin:** They decided that they will be part of the plan or they won't be part of the plan.

**Mr Mahoney:** You did this, I presume, without government interference?

**Mr Dumoulin:** We did that among our own structures. That's how we did it.

**Mr Mahoney:** Thank you very much.

Could I ask, Joe: The ILO convention that I referred to, and you did as well, have you sought a legal opinion on this? I know you filed a complaint.

**Mr Mahoney:** No, we filed a complaint with the ILO. We haven't got a legal opinion. We haven't got a legal opinion in writing. We've talked to several lawyers about it and they've alluded to the fact that there's a possible charter violation there as well.

**Mr Mahoney:** Will you be following through on that, getting a legal opinion and attempting to challenge the bill if it's passed?

**Mr Mahoney:** Definitely. If the bill passes the way it is, we have no other choice but to go the whole route.

**Mr Mahoney:** Help me out on a couple of things, because if the government doesn't agree to your suggestions I may have to put your suggestions in the form of resolutions and I want to understand them. You suggest deleting in subsection 138.1(1) the word "work," and say that it's covered because it's the same as geographic. I don't follow that.

**Mr Mahoney:** When work jurisdiction pertains to a single craft, it pertains to the boilermaker or the ironworker as an individual craft, then that local is assigned a geographic charter and that encompasses the work inside that charter. The word "work," if it means what the



deputy minister said it means, is not necessary because it's already included in geographic jurisdiction.

**Mr Mahoney:** But does it cause a big problem if it's there?

**Mr Maloney:** The concern I had with it is that right now if the ironworker and the boilermaker are fighting on a job site over who puts that steel up, a tower or something, and they can't agree on it, normally the two international reps from the respective organizations would come in and say: "Okay, Steve. I know it's your work. You take the work back."

We had a concern that the local business agent or manager would say: "Hold it. Section 138.1 of Bill 80 says 'work jurisdiction.' You can't give that away." That's the concern we have, and we don't want that to be misinterpreted down the road.

**Mr David Johnson (Don Mills):** I'd like to congratulate you for your deputation today. I must say that I'm not totally familiar, but it's been quite an eye-opener for me.

This is a question to either one of you, whoever could address it. I wonder if there is any way of prioritizing your concerns. They've been well enunciated here today; there are quite a number of them, and government may or may not accept them. If they don't, are there any ones that are of particular concern over and above the others? For example, in subsections 138.2(4) to (6) it's being suggested that you form councils, and this is obviously one of your major concerns. What is your number one priority?

**Mr Maloney:** Our main concern here is the intrusion on our constitutions, and that would come in sections 138.3 and 138.5. Section 138.2 deals with bargaining rights, and that's government interference into the collective bargaining procedures in Ontario. But I wouldn't like to prioritize them, because we're only speaking to three of the four pieces of legislation that the government's dealing with. That's our list, and we're very serious about these three issues. They deal with government intervention in the collective bargaining procedure, and they deal with government intervention into the trade union constitutions.

On the definition section, it's just a matter of housecleaning. So I don't want to prioritize, because they're all of equal value to us and they're all very important issues that could disrupt the way things are happening out there.

**Mr David Johnson:** I'm very concerned when I read on page 10 your suggestion that these amendments would cause "the least amount of damage to the construction industry." That's really damning with faint praise. In your other remarks you indicated that the legislation was tabled before you had an opportunity to be involved, and I just wonder how that came about.

**Mr Maloney:** I don't know how it came about either, but that's the problem we've got with it. We heard some rumours on the street prior to June 1992 that there was going to be some construction legislation coming down. We inquired about it and we were told no. Then, all of a sudden, voilà; around the end of June 1992, Bill 80 hit

the streets. Why? Where is the problem? Who do you discuss it with?

We've heard through the industry that there were talks going on for well over a year between certain individuals in the construction industry. The newspapers have alluded to them as high-ranking union officials in and around the Toronto area. I've talked to the provincial building trades; they weren't consulted. The Canadian building trades weren't consulted about it. All of a sudden, the legislation was tabled and then we had to start dealing with it.

**Mr David Johnson:** I presume that during that period of time you and your members had contact with the government about what was going on, whether these rumours—

**Mr Maloney:** Oh, yes.

**Mr David Johnson:** What kind of information were they feeding you back?

1800

**Mr Maloney:** They were just saying that they were going to consult with us and talk with us. We did have some meetings with the government—I can't deny that—but there was nothing ever put to us in writing besides what was tabled in the House. We were told that we were going to have something in writing on several occasions and it never came about. We were supposed to have some real input into the consultation process on trying to reformulate the legislation. That never took place. It was always just a five-, 10-, 15-, 20-minute situation where they talked about, "Yes, we're making more changes; we're talking with more people," and then that was the end of it. So we had to go around and talk to every individual MPP we could to try to gather some support for our concerns.

**Mr David Johnson:** You've expressed the concern that this should be complaints-driven.

**Mr Maloney:** Yes.

**Mr David Johnson:** I wonder if you could elaborate just a little bit more on that and how that works. I'm somewhat new to this.

**Mr Maloney:** If you take sections 138.3 and 138.5, those would be the two sections that would be complaints-driven. Right now, under the jurisdiction section, the international owns and issues charters. They'll issue the charter for a specific geographic area. For whatever reason, if there's no work in that area and that organization can't keep a full-time office staff or a full-time business manager, then maybe it's better for all concerned that Local A and Local B merge together. There's usually a process that takes place. They would go and have meetings with the memberships and usually try to get motions passed by the members to do this.

There have been stories out there that the international just comes in and says, bango, "We're merging you," without any consultation or any process. We don't want that to happen either. But what we're saying is that the international should not have to apply to a tribunal in the government and ask for permission. They should be able to do what they have to do, and if they do it wrong or they do it arbitrarily, then that local should be able to complain and have it rectified.

**Mr Mammoliti:** Mr Maloney, welcome. I'm sorry that I missed, actually, most of your verbal presentation, but I promise I'll read the brief.

**Mr Maloney:** Okay, there's a test on it on Saturday.

**Mr Mammoliti:** Phone me tonight.

One area that you talked about while I was in the room and that I'm certainly concerned about is the whole area of trusteeship. You related the trusteeship to a part of the bill. Actually, you quote the bill. It says, "otherwise interfering with a local trade union, directly or indirectly, in such a way that the autonomy of the local trade union is affected." You say that it lacks any meaningful definition of "directly or indirectly." That's tab 1, page 9.

Am I safe in assuming, I guess with my stint in unions myself over the past, that most unions, and I think you said this earlier, don't necessarily interfere with local unions, that international unions, in their constitutions, don't necessarily interfere and use the trusteeship clause unless they absolutely have to, unless there's a problem within the local? I'm sure I could name 100 different types of problems that might occur. But at the same time, you're concerned about the definition and what that would mean.

Am I also safe in saying that the reason you're concerned about this is because of a ruling that the board might make later on that might set some precedents and create the definition that you're concerned about? I'm sorry if I'm all over the place, but I hope you've understood me. Are you concerned that somebody else will make the definition for the government if the government doesn't define what it means by this statement?

**Mr Maloney:** The problem we have when we see the wording in the government's language, "interfere with a local trade union, directly or indirectly," is we don't know what that means. If Local A is not organizing the non-union element and all its work is being done by non-union, can the international not go in and tell it, "Look, you better start organizing out there or they're going to eat up all your work"? Is that interference? It doesn't tell us that.

**Mr Mammoliti:** In my opinion, if a ruling was made by a board on this sentence, on its meaning, that would define it, would it not? And that ruling might be favourable to your concern.

**Mr Maloney:** I'll be as candid and blunt as I can. In our opinion, it's none of the labour board's business how we handle our internal union affairs. But if we're doing something that's arbitrary or heavy-handed, then there's got to be some remedy that the local can have.

**Mr Mammoliti:** Okay. We've established that and, quite frankly, if you haven't guessed already, I share some of the same concerns you do.

I'm sorry I haven't read the brief, but are you prepared to come back to me or to the members with some amendments, some proposed—

**Mr Maloney:** They're in here.

**Mr Mammoliti:** With every concern that you have, there's an amendment?

**Mr Maloney:** Every one. If you go over to page 10, that's our suggested amendment. Like, on page 9, in subsection (3)—

**Mr Mammoliti:** Okay, you've already given it. It's just a matter of my reading it, then.

**Mr Maloney:** Yes, that's right. Like, the words "not bound by" are just very, very offensive.

**The Chair:** Thank you very much, gentlemen, for appearing here this afternoon. I'd like to thank the Canadian building trades department on behalf of the committee and each of you for your presentation here this afternoon. We trust that you'll stay in touch with the committee as we go through the process of dealing with Bill 80, and I'm sure you will. I encourage you to stay in touch with the clerk of the committee or any sitting member of the committee as we go through Bill 80. Thank you very much for appearing this afternoon.

We are then adjourned until Wednesday, November 17, at 3:30 pm.

The committee adjourned at 1807.





## CONTENTS

Monday 15 November 1993

<b>Labour Relations Amendment Act, 1993, Bill 80, <i>Mr Mackenzie</i> / <i>Loi de 1993 modifiant la Loi sur les relations de travail</i>, projet de loi 80, <i>M. Mackenzie</i> .....</b>	<b>R-507</b>
Ministry of Labour .....	R-507
Hon Bob Mackenzie, minister	
James R. Thomas, deputy minister	
Pauline Ryan, labour-management policy adviser	
Catherine Laurier, labour-management policy adviser	
Building and Construction Trades Department, AFL-CIO, Canadian office .....	R-518
Guy Dumoulin, executive secretary	
Joe Maloney, assistant to executive secretary	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Huget, Bob (Sarnia ND)
- \***Acting Chair / Président suppléant:** Klopp, Paul (Huron ND)
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)  
Conway, Sean G. (Renfrew North/-Nord L)
- \*Fawcett, Joan M. (Northumberland L)  
Jordan, Leo (Lanark-Renfrew PC)
- \*Murdock, Sharon (Sudbury ND)  
Offer, Steven (Mississauga North/-Nord L)
- \*Turnbull, David (York Mills PC)  
Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
- \*Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer  
Mammoliti, George (Yorkview ND) for Mr Waters

### **Also taking part / Autres participants et participantes:**

Johnson, David (Don Mills PC)

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service



(H200)  
XC13  
-576



R-23

R-23

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 17 November 1993

# Journal des débats (Hansard)

Mercredi 17 novembre 1993

## Standing committee on resources development

## Comité permanent du développement des ressources

Labour Relations Amendment Act, 1993

Loi de 1993 modifiant la Loi  
sur les relations de travail

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 17 November 1993

The committee met at 1535 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

**The Chair (Mr Bob Huget):** We call the committee to order. It's 3:35. We will resume hearings on Bill 80, An Act to amend the Labour Relations Act. The first scheduled witness this afternoon is Elizabeth Witmer, MPP and third-party Labour critic. You have one half-hour for your opening statement.

ELIZABETH WITMER

**Mrs Elizabeth Witmer (Waterloo North):** I certainly will not be taking 30 minutes. Much of what I felt necessary to put on the record has already been said in the House, and I don't believe in repeating all of that information again. I've sent copies of the presentation in the House from October 4 to all those people who were interested in those comments.

I have to tell you today that despite the fact that we are sitting in committee, despite the fact that we have now scheduled four weeks of hearings, I am extremely concerned that the government will not really be making any further changes to the legislation than perhaps some of the changes that have been recommended. In fact, I'm concerned that even what's been recommended might not be part of the final draft. There's no guarantee that those changes the minister and the staff spoke to will become part of the amended Bill 80. I wish I could get some assurance that they will be, and I would ask the parliamentary assistant if he can guarantee that those proposals will be part of the amended Bill 80.

**Mr Mike Cooper (Kitchener-Wilmot):** You mean the proposed revisions that were handed out to the critics at second reading debate? Will they definitely be introduced?

**Mrs Witmer:** Yes. Will you give me your personal assurance that they will form part of the amended Bill 80? Will you be introducing those officially as amendments to the bill?

**Mr Cooper:** I will officially be introducing amendments. I do not have the package of amendments at present, but it is my understanding that the ministry will proceed with some of the proposed revisions and will also be looking at the revisions that were introduced yesterday by Mr Maloney.

**Mrs Witmer:** That's what concerns me. I can tell you, many of the groups concerned about Bill 80 now believe that those proposals are going to be part of the amendments for Bill 80, but you've now indicated to me that "some" of them will be. I hope those people who are going to be speaking here in this room and who have an interest in the bill understand fully that the government

has not made a commitment to introduce all of those amendments. Those are indeed not part of Bill 80 at present, and they might never see the light of day. I think that's important, because many people were under the assumption that those changes definitely would be made.

I'm still very concerned that the consultation process that has taken place from day one has not responded to the situation in the province. We've had a tremendous amount of peace and tranquility within the construction industry, and I'm still very concerned that this legislation can lead to some future chaos. I don't personally believe it is in the best interests of the industry, and I want to make sure I put that on the record. I think it could contribute, in the long run, to a very unstable construction industry, and I want to express those concerns. I'm concerned that the government is interfering in this process, and I'm concerned about the process that has taken place in the past.

I was concerned about Mr Mackenzie's comments on Monday. He indicates that this is the government's commitment to give workers a greater say in the workplace. I would suggest to you that if you take a look at the representations that are going to be coming in front of us, workers already have a say in the workplace, and there's no indication that this in any way, shape or form is going to contribute to a further say.

1540

He also indicated in his comments the absolute need for this bill. He says here, "As you will no doubt hear from presenters, these problems are acute in the construction industry," yet the minister has not been able to demonstrate or tell us what the problems are and who has had problems. We've never, ever received an answer from him as to the demonstrated need for this legislation. He made a comment that same day about the fact that he's been hearing this for 11 or 12 years. Well, that's fine, but we don't know the truth of that and he's never bothered to make us aware of that other than to say: "There are people out there. They have problems. Trust me; we need to do this." I'm a little suspicious of the genuine need to make changes at this time.

I'll limit my comments. As I've said before, it's absolutely essential that there be consultation. I think it's important that we hear from the individuals who are going to be impacted and I want to allow as much time as possible. I would urge the members of the government sitting on the committee to pay the utmost attention to the presentations that are being met. I sincerely hope you have not predetermined the direction of Bill 80. I hope you haven't even come to the absolute conclusion that the bill is necessary. I would suggest to you that I don't believe there is a demonstrated need for Bill 80 and I would encourage you to keep as open a mind as possible. If you take a look at the numbers, the majority of people who are going to be impacted by this legislation do not support Bill 80, and I hope you will take that into

consideration as you listen to the deliberations and as we vote on the need for the bill and, if you decide to go ahead with it, then the amendments to the legislation as well.

**The Chair:** Thank you, Ms Witmer. We had allocated till 4 o'clock for your opening statement. If you don't wish to use that, we will move to witnesses, if that's agreeable to you.

**Mrs Witmer:** That's just fine.

**Mr Steven W. Mahoney (Mississauga West):** Mr Chairman, could I ask for clarification? When we receive letters, as we have here from the Ottawa-Hull Building and Construction Trades Council, which very strongly puts its position forward—and I see we're getting others—is there a mechanism whereby we could read into the record the groups that are for and against and their concerns? I'd look to your guidance.

I know that normally it just comes in and is stamped as an exhibit, but I don't know that it has the impact when you've got 80% of the construction industry, the construction workers opposed to government legislation. I think it's important that groups like this, on either side of the issue, be recognized in Hansard. This group, in a letter dated November 11, says that on behalf of their 10,000 affiliated members, they want a rep to put forward their complete dissatisfaction with this bill and even with the revised bill, and they call on the government to remove it. I don't know how you want to handle that or if you have some advice that might be of help.

**The Chair:** Normally, the written presentations are, as you've correctly stated, marked exhibits. All members receive copies of them, and as members go through the exhibits they will become, obviously, aware of a particular petition. If any member wishes to raise that issue in terms of a specific group, then that can be done. I believe you've already done so, Mr Mahoney.

**Mr Mahoney:** Thank you.

WATERLOO, WELLINGTON, DUFFERIN AND GREY BUILDING AND CONSTRUCTION TRADES COUNCIL

**The Chair:** Would the Waterloo, Wellington, Dufferin and Grey Building and Construction Trades Council please come forward. Good afternoon and welcome. Please introduce yourself for the purposes of Hansard and then proceed with your presentation. You've been allocated one half-hour and I believe the committee would like a portion of that, perhaps 15 minutes if possible, for questions and answers and dialogue.

**Mr Jerry Wilson:** Sure. My name is Jerry Wilson. I'm president of the Waterloo, Wellington, Dufferin and Grey Building and Construction Trades Council. We have about 7,000 members with 15 affiliates. You should have received my presentation in writing by now. It's not that long, so I think I can go through it and read it. In my concluding remarks, the position of our council is that we would like to see Bill 80 removed in its entirety, mainly because we're not sure what all is in there now and what is not.

Re Bill 80, November 17, 1993: International construction unions enjoy good rates, benefits and pension because they have evolved and improved over the past

century. Naturally, along the way there are some problems and challenges, but there are appeal procedures and problem-solving methods in place. Constitutions are altered and improved upon at conventions. Any situations not resolved in favour of the majority or in the best interests of the majority by using the present structures within international unions are few and far between, and certainly there is no need for legislation or government interference.

Bill 80 was introduced by the Ontario provincial NDP government after hearing from a vocal minority group that complained about international construction unions over some individual situations. This legislation is ill-conceived, because the very organization affected, the Ontario Provincial Building and Construction Trades Council, was not consulted.

**Opposition:** Also, since its introduction, there has been strong opposition from all sectors of the construction industry right from officers down to rank-and-file members. For example, some building trades councils that strongly oppose Bill 80 are Hamilton, Kitchener, Windsor, Ottawa, London and St Catharines.

To the best of our knowledge, no building trades support Bill 80, with the exception of Toronto, and that was far from unanimous and only supports parts of the original version. We do not know what version is out there now. The Ontario Provincial Building and Construction Trades Council voted against this bill with a vast majority at the 1992 and 1993 annual conventions.

Also, the Canadian building and construction trades national convention voted against Bill 80 in 1992 with a vast majority. The Canadian Federation of Labour voted strongly against this at the national convention in 1992, and the annual convention of the Ontario provincial council of the Canadian Federation of Labour voted strongly against Bill 80 in its entirety. Also, the Ontario allied council representing construction trades on Ontario Hydro sites is opposed.

My research tells me that 13 out of 14 bargaining councils, ie, 13 different trades, have opposed Bill 80. This represents about 85% of the workers. Mr Cooper stated the London building trades are in favour of Bill 80. That indeed was their original position, taken at a meeting without full representation. That council has since reversed its decision, when there were more affiliates in attendance at a meeting. I have letters of confirmation on this if need be. I'm sure Mr Cooper has received them too.

**No consultation:** There has been this strong opposition because there was no consultation with the affected parties, like building trades councils, prior to introduction. As a result, opponents have to react and did not have the luxury of being proactive. The very fact that this was introduced so secretly and sneakily is proof that the government met only with a vocal minority and has not been consulting or listening to the majority ever since. This is pitting brother and sister members against each other.

**Discriminating:** Mr Mackenzie states that construction unions have a different setup than industrial unions in terms of control of locals and pension and benefit plans



and do not have the same mechanisms. Research has shown there are few differences, but if this unwanted legislation is good, it should apply to all international unions and not single out construction.

**Trustee structure:** One area where the status quo in construction is superior to some industrial unions is in trustee structure. All benefits and pensions can be joint-trusted if desired, and there are no cases in construction where pension money was scooped, as is often the case with industrial unions. We enjoy labour and management trustees because management trustees have business sense and expertise, and most of these were raised through the apprenticeship system and some still carry union cards. As a result, their input is in the best interests of the members and their employees. This check-balance with trustee structure is designed by the organizations, and the government has no need to interfere.

#### 1550

**Jurisdiction:** The regulatory power the parent trade union serves is a necessary powerful deterrent to one local union laying claim to the work properly chartered to a sister local. If this administrative power is removed from the international, disputes could increase dramatically. These disputes can cause work to go non-union. That is why constitutions are the way they are.

On October 5, 1993, Mike Cooper quoted from a letter written by the International Brotherhood of Electrical Workers, Local 1788. It states the international is removing Local 1788's jurisdiction to work on miscellaneous hydraulic projects. In detail, if this work on a Hydro site is awarded to a contractor, workers will be supplied by the local in the area. If the work is by Ontario Hydro and not a contractor, Local 1788 will supply workers.

Local 1788 was chartered to supply to Ontario Hydro only, and any attempt to expand its bargaining rights at the expense of others should be stopped, and by the constitution, the international has and must keep this power to avoid these disputes. If Bill 80 passes, there will be chaos with no head office to control greedy expansion. It is assumed supporters of Bill 80 have this in mind.

There have been cases where a local is not in a financial position to survive, but the international has merged it with a bigger local. This was opposed by proud members, but these decisions prove beneficial to their wellbeing. The international office must retain its leadership ability in the members' best interests.

**Interference with a local union:** Trade unions are required by law to ensure a fair hearing. There are few examples of trusteeship, and certainly no need for legislation, but if a local happened to have some renegades on staff, there must be a head office to assist the organization remain strong and effective for its members. There are appeal procedures available in the constitution if any member or officer feels wrongly treated. Each member is entitled to have the constitution enforced on his or her behalf, and if the already overburdened OLRB comes between the member and the international, the constitution is worthless, and we suggest the international has the superior expertise.

**Concluding comments:** There are numerous agreements

administered by international building trades unions that account for millions of hours of labour per year. Examples are pipeline, maintenance and hydro. Some of these are national, and to have a different or reduced strength in the constitution in Ontario over the rest is problematic. I should have underlined that.

Internal disputes don't belong in the public courts until all internal dispute mechanisms have been exhausted. Bill 80 would negate this long-standing, logical order of events. The members of international unions enjoy good wages, benefits and protection and can travel across the border to work. The vast majority do not want any change to this and especially do not want government interference.

Reference has been made by others that Bill 80 is contrary to the International Labour Organization Convention 87, and opinions on this are being sought. It also contradicts freedom of association. This government should reassess Bill 80 for these reasons alone.

Problems can be addressed within international unions by using the democratic process available through resolution and voting at regular conventions. Why waste time, money and energy on such ill-conceived legislation to satisfy a small group? The government has designed a cannon to kill a fly. The provincial government should instead be concentrating on projects that will be well received by all, projects that will stimulate business and create jobs.

For example, presently, as president of the local building trades council, we have initiated the production of a promotion video for the proposed Bruce energy park adjacent to the Bruce nuclear power development. The first phase of this nearly \$1-billion proposal will see multi plants produce environmentally friendly synthetic energy with no smoke stacks. This five-year project will create thousands of construction jobs and hundreds of permanent production and maintenance jobs, plus tremendous spinoff. This is the leadership and direction the voters and taxpayers are seeking in this province, rather than legislation that will divide unions, anger workers and confuse employers.

On behalf of our membership and the building trades council, it is our wish to see Bill 80 withdrawn in its entirety, and at the very least make the changes suggested by the Canadian building trades office with a consultation process. That's my presentation.

**Mr Mahoney:** Thank you very much for that presentation. It is I think very succinct and to the point and really outlines the concerns I've been hearing all over the province. You mentioned the Canadian Federation of Labour. I met with Jim McCambly in Ottawa last Friday and we spent some time in his office going through it. You sort of sit there and shake your head and go, "We just don't understand what the agenda here is."

You made reference throughout this to a small group of people. At one point you talked about that group being principally in Toronto. There's an old saying that this is not the province of Toronto, and that if there's a problem and it's somewhere in Toronto, whatever the issue is, perhaps the government should deal with it locally.



I've asked Jim this, and Joe Maloney and Guy Dumoulin and many other people in the labour movement. Can you give me some kind of an understanding of what you think the reason for this is? Is there a hidden agenda that I don't know about yet?

**Mr Jerry Wilson:** I believe there is, especially with the initial draft of the legislation, where it was so easy to withdraw from the international if you wanted and you could be organized by industrial unions. That looked like a Bob White agenda to us and there was some evidence of that. So the lobbying efforts have paid some dividends so far in that it's been removed, I hear; I have not seen it. So that's the hidden agenda we suspected.

**Mr Mahoney:** You should maybe just explain that a little more to have it on the record, because I've wondered about that. As I understand it, virtually everybody in the construction trades has an affiliation with the national body in Canada called the Canadian Federation of Labour, and not with the Canadian Labour Congress, which Mr White of course is head of. There was some thought at one point that this was an attempt to raid on the part of the CLC and take membership away from the CFL. I have heard that said on numerous occasions but I can't get a handle on that. Is that what you mean when you say "a Bob White agenda"?

**Mr Jerry Wilson:** Yes. It's only a suspicion, but most of the building trades did pull out of the Canadian Labour Congress some years ago because of some structural problems we couldn't resolve. So ever since we've been on the bad books with the Bob Whites, and maybe the NDP, which is closer to the CLC than the CFL.

**Mr Mahoney:** You've got 7,000 members. What would your annual union dues be?

**Mr Jerry Wilson:** Our union dues? They vary.

**Mr Mahoney:** What would you guess for 7,000 members?

**Mr Jerry Wilson:** People can pay anywhere from \$500 to \$1,000 a year in dues.

**Mr Mahoney:** Really? So it's a lot of money.

**Mr Jerry Wilson:** Sure.

**Mr Mahoney:** I just wonder if that might have anything to do with it.

When you establish your constitutions and you go through an amending process, do you know any other jurisdiction where the government would actually come in and force an amendment on the constitution of a duly elected body? I'm talking about anywhere else in the free world where that kind of thing might happen. Do you have any examples of that?

**Mr Jerry Wilson:** Absolutely not. I liken it to the government coming to the Knights of Columbus I belong to and telling us we have to make some changes.

**Mr Mahoney:** Can you just tell me, with your 7,000 members—because you'll get this thrown in your face on either side of this issue—it doesn't necessarily mean everybody's opposed. If there's a group representing 7,000 members, what gives you the right to say all 7,000 are opposed? Can you give me some idea of what you

implemented to try to educate your membership on the issue?

I was at the council in St Catharines and know that the vote was overwhelmingly against and that most of the people there were opposed, but of course there weren't 7,000 people there. We have the Ottawa-Hull trades council, which has 10,000 people and is claiming they're opposed. What mechanism do you have in the labour movement in your sector to try to consolidate either support for or opposition to a government bill?

**1600**

**Mr Jerry Wilson:** We take the position as a building trades council that the majority decides, and the majority of our council is vehemently opposed to Bill 80.

**Mr Mahoney:** Do you get response from the rank and file? Do they really know what's going on with this?

**Mr Jerry Wilson:** Yes, the individual trades send out newsletters and request that they lobby their MPP whether they agree with the position of their organization.

**Mr Mahoney:** The dispute settlement mechanism in the construction industry for some time, going back some 70 years, has been the implementation of the book I've seen, where the international comes in as an independent referee and settles these disputes. Can you explain a little about how that works, either geographically or sectorally or whatever, and how that's worked with in your sector?

**Mr Jerry Wilson:** Jurisdiction is hammered out over many, many years and agreed upon by head offices, and if there is a dispute onsite that can't be settled by the trades onsite, then it goes to the managers of the union. If they can't settle, it goes to the internationals that originally drew up these agreements. Then it's settled.

**Mr Mahoney:** And it's been working?

**Mr Jerry Wilson:** Oh, very effectively. There's another way. If you do fail to settle internally, then you go to the labour board, but that's after you exhaust your internal systems.

**Mrs Witmer:** Jerry, thank you very much for your presentation, but coming from Kitchener-Waterloo, I knew it would be just excellent. Thank you for the information you've provided. Certainly your presentation is consistent with the ones we are receiving by mail and that are also being personally delivered. There is certainly widespread opposition to Bill 80, and I guess I hear you saying, Jerry, that your number one priority would be that the government would withdraw the legislation.

**Mr Jerry Wilson:** That's our position.

**Mrs Witmer:** Have you met with the minister or his staff recently?

**Mr Jerry Wilson:** No, we've never met with the minister. We met with Derek Fletcher, Mike Farnan. I don't know if Mike Cooper was at the meeting, because I was not; I think Mike Cooper was at the meeting. On more than one occasion my assistant had quite a lengthy discussion with Mike Cooper, after the CFL convention in Kitchener, and I think he was at your office. So we have spent some time with politicians. Many, many letters have gone out.

Mr Mahoney makes reference to: Is this only a

Toronto problem or Toronto opposition? When you add up all these building trades councils, the numbers outweigh those in Toronto. The figures don't lie. It's overwhelming opposition.

**Mrs Witmer:** We've dealt with this before. We see this overwhelming opposition to Bill 80. We see the attempt to eliminate the freedom of association. I ask you one more time: Why is the minister, why is the NDP government, so determined to proceed with Bill 80, in your opinion?

**Mr Jerry Wilson:** I'd like to know that also, Elizabeth. They consulted with some people and said, "No problem, we'll bring that in." But why, we don't know.

**Mrs Witmer:** I guess that's it, isn't it? There was consultation prior to the bill coming into the House, but only with a very select group of individuals, and it appears only the minority that favoured the bill. I'm not aware of any widespread consultation with the majority that were opposed.

**Mr Jerry Wilson:** That's what makes it wrong for our industry, and we're talking about jobs too, the fact that a small group can cause a negative effect on our membership and our employers and, ultimately, jobs.

**Mrs Witmer:** What do you think is going to be the most severe impact of this bill if it goes through, in whatever form? I think you heard Mr Cooper say there's no guarantee that the changes that were proposed will be incorporated if they do go ahead. What's going to be the most devastating impact?

**Mr Jerry Wilson:** I'd like to refer to my page 3 on jurisdiction, where now every trade has a head office to keep a lid on people expanding their jurisdiction. If there's nobody to mind the store, we're going to have some chaos. It will cause fighting because people aren't going to let their work go away, and if you have fighting, you lose it to somebody else. So to withdraw Bill 80 is better all the way around. I think that's the biggest thing.

**Mrs Witmer:** You mentioned that at present your members enjoy good wages, benefits, protection and they can travel across the border to work. Does this happen often, Jerry?

**Mr Jerry Wilson:** Oh, yes. A tremendous number of Ontario tradespeople in various locals are in the US right now. Just today, about half a dozen of our members indicated they're ready to go to work in the States and where is the work? So I told them, and now they have to decide if they want to go before Christmas. But they can work in Kentucky, Virginia, Colorado and New Jersey, I believe, right now.

**Mrs Witmer:** Is that because there isn't work for them here?

**Mr Jerry Wilson:** There isn't work here, but through our unions they're busy down there. All they have to do is have a paid-up receipt and away they go to work.

**Mrs Witmer:** So they have that option.

**Mr Jerry Wilson:** Oh, definitely.

**Mrs Witmer:** How will Bill 80 change that?

**Mr Jerry Wilson:** I'm not sure how to comment on that because I don't know the final draft, but it certainly

is not going to have any positive effect anywhere, even within the nation. If we're on a national maintenance agreement and there are different rules in Ontario, it will have a negative effect.

**Mrs Witmer:** I would appreciate having the government respond to that particular question of the impact of Bill 80, on that flexibility to seek work where the work is available.

Now, how serious do you think the government interference is going to be? What's going to be so different?

**Mr Jerry Wilson:** Just the fact that a member or an officer can't go to the constitution now and rule by the constitution because the labour board comes in between. That's unheard of. I have reference in here to freedom of association, the whole thing, where it says the state won't interfere:

"Workers' and employees' associations shall have the right to draw up their constitution and rules to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs. The public authority shall refrain from any interference which could restrict their right or impede the lawful exercise thereof."

I think the government is going to have a problem when this is challenged, if it passes.

**Mrs Witmer:** I agree with you. If you take a look at section 2 of the Charter of Rights and Freedoms, it does contain the freedom of association. It indicates that individuals have the right to associate. Workers in the building and construction industry have freely associated with their unions now for almost a century.

If you look at Bill 80, it goes far beyond regulating the internal affairs of your union or any other. What it really does is replace the rights of Ontario's building and construction trades unions and the right of the members to freely associate in their unions with the will of this government. It's all going to be enforced by the power of the labour relations board. I agree with you, Jerry, that definitely we are going to see Bill 80 tested in the courts in terms of the constitutionality.

**Mr Jerry Wilson:** And then we'd all be embarrassed.

**Mrs Witmer:** That's right.

1610

**Mr Cooper:** Mr Wilson, thank you for your presentation. First of all, Bill 80 didn't just come out of thin air; it's an extension of Bill 40. There were two pieces separated; Bill 80 was separated because there were obvious problems there. That's why we've brought forward some proposed revisions, because after we had put it together we determined there were problems that certain individuals couldn't live with. There were flaws in the legislation as it was originally drafted. That's why the proposed revisions were brought out and given to the critics at second reading time, to hopefully speed the process through committee. The Agricultural Labour Relations Act was also separated because this was another section from Bill 40 that they thought might be controversial. There was separation and that's where the bill came from. It didn't just appear.



As to the revisions, as all the committee members know, the amendments aren't usually submitted until after the public hearings, because while we've talked to people since the introduction of Bill 80 and found there are certain problems and there are certain things we would like to commit to right now, we can't do the whole thing until after we've had the public hearings and we've had people come forward either pro or con on the issue. We're waiting for that to determine what we want to bring forward as proposed amendments.

Mr Mahoney asked yesterday whether or not we were going to introduce Mr Mahoney's proposed revisions. As a matter of fact, Mr Mahoney himself could introduce those amendments, on the off chance we don't do it, and then they will be discussed by committee and voted on appropriately.

**Mrs Witmer:** Voted down.

**Mr Cooper:** Whatever.

**Mr Mahoney:** When have you ever supported an opposition amendment?

**Mr Cooper:** It has happened in committee before. Anyway, the question I want to ask right now is, have you seen the proposed revisions we've put forward?

**Mr Jerry Wilson:** No.

**Mr Cooper:** Have you seen the proposed revisions that were put forward yesterday by the Canadian building trades department?

**Mr Jerry Wilson:** Yes, I've seen them.

**Mr Cooper:** You've seen those. They were in response to ours. Right at the end of your brief it says, "At the very least make the changes suggested by the Canadian building trades office with a consultation process." What we're doing right now is the consultation process, and as I said earlier, we will be looking at the proposals that were put forward yesterday.

**Mr Jerry Wilson:** By consultation process, I mean committee hearings around the province.

**Mr Cooper:** What we're looking at right now is that just about everybody affected by this is aware of Bill 80 and what's going on. They had called ahead before we even got to committee, trying to get on to come here and discuss these matters. I think everybody's aware of it, so the need to travel around the province—

**Mr Jerry Wilson:** I'd like to speak to Bill 40 and Bill 80. They really are entirely separate. Bill 40 is on organizing and strikebreaking etc. There was lots of consulting with unions prior to Bill 40, but absolutely none with the building trades prior to Bill 80. There's quite a difference in—

**Mr Cooper:** At the time of the consultations for Bill 40 is where the problem came forward in the construction trades, as stated by certain individuals, whether they be a minority or whatever, and that's why they were brought in. Basically, Bill 40 was dealing with greater fairness for workers in the province of Ontario, and what we're feeling is that Bill 80 is also working towards greater fairness and balance for the workers in the province of Ontario.

**Mr Jerry Wilson:** But indeed it's making it very

unfair for us to abide by our constitution.

**Mr Cooper:** That's one thing we want to discuss also, that obviously Bill 80 has caused some internal conflict within the construction trades. Do you feel that by expediting the process it would help, that if we got Bill 80 through in some form it would help and you can get on in the construction industry with doing your job and avoid the internal conflict, or would you rather see this dragged out?

**Mr Jerry Wilson:** I'd rather see it removed completely. We were doing fine before Bill 80. We were doing very fine.

**Mr Cooper:** But there were certain individuals, obviously, who did have a problem.

**Mr Mahoney:** Who?

**Mr Jerry Wilson:** And now there's going to be 85% having a problem with Bill 80. Do you think that's right? Not at all.

**Mr Cooper:** That's why we're doing the public hearings to find out how we can solve the problem.

**Mr Jerry Wilson:** I see. We have done a lot of research into industrial unions—you're going to hear more on that from other presenters—and there's very little difference, yet this doesn't apply to industrial unions.

**Mr Cooper:** With the constitutions there's little difference, but with the actual makeup of the construction industry, obviously that's why they have a different section in the Ontario Labour Relations Act. They are different, because they control things like hiring halls, where the industrial unions don't have that makeup, and your pension plans and benefits are handled differently in construction. That's why they have a separate section in the act.

**Mr Jerry Wilson:** We don't have any problems with our trustee structure. There's no need for you to even introduce anything there, for sure.

**The Chair:** Mr Waters, you have about one minute.

**Mr Daniel Waters (Muskoka-Georgian Bay):** Then I'll just ask the first part of what I wanted to ask. You said earlier on that people in the local area end up getting the jobs. I can tell you in Muskoka right now we're doing five sewer and water projects, we're building a number of schools, and I have nothing but a solid stream of local people who belong to the construction industry, who are part of the union, complaining that the jobs are going to the people from outside of the Muskoka-Georgian Bay riding.

You said, sir, that the local people get hired on to those jobs, and in fact that's not the case. The case is that people from southern Ontario are taking those jobs at those job sites and are getting preferential hiring over the people of Muskoka.

**Mr Jerry Wilson:** I don't think I would make that statement, because in our hiring halls you can only bring in the foreman; the rest have to be hired locally. I didn't make that statement.

**Mr Waters:** Somewhere in here it says that the local people get the jobs at the local sites.



**Mr Jerry Wilson:** That's not part of my presentation.

**Mr Waters:** That's the problem, though. The problem is, where's the fairness?

**Mr Jerry Wilson:** What does Bill 80 have to do with who gets hired on a job?

**Mr Waters:** It has to do with how the unions, the locals, work.

**Mr Jerry Wilson:** Are you referring to "Local 1788, miscellaneous projects"?

**Mr Waters:** I can't remember what page it was. I was looking at something else. You had talked about it in your presentation.

**Mr Jerry Wilson:** That's what you're referring to. It's page 4. That issue makes no difference in who goes to work geographically. A particular case in point was Adam Beck in St Catharines. Be it Local 1788's people who live in the area or Local 303's who live in the area, it's an IBEW dispute. It's nothing to do with where the people live geographically.

**The Chair:** I'd like to thank the Waterloo, Wellington, Dufferin and Grey Building and Construction Trades Council and you, sir, for your presentation and appearance here this afternoon. I trust you'll stay in touch with this committee as we continue on hearing Bill 80. I encourage you to do that through the committee clerk or any sitting member of the committee. Thank you very much for taking the time to present here this afternoon.

INTERNATIONAL ASSOCIATION OF  
BRIDGE, STRUCTURAL AND ORNAMENTAL  
IRONWORKERS

**The Chair:** The next witness is the International Association of Bridge, Structural and Ornamental Ironworkers. Good afternoon, gentlemen, and welcome. You've been allocated one half-hour for your presentation and I know the committee would like approximately half of that, if possible, for questions and answers. You can begin at your leisure. Please introduce yourself into the microphones for the purposes of Hansard.

**Mr James Phair:** My name is James Phair. I'm with the Ironworkers International. This is our general treasurer, James Cole.

My presentation is very short. It deals primarily with what I perceive, or we perceive, many of us perceive, will happen in the construction industry vis-à-vis how designations could be interrupted if Bill 80 is enacted.

I thank you for allowing me to appear before you to explain in detail my opposition to Bill 80. You'll have to excuse me; I've got a terrible cold and 19 frogs in my throat. That's living in Sarnia. Bob, you know that.

However, prior to getting into the merits of the bill, allow me to give you a brief background on myself. I'm a fourth-generation Canadian, and since 1958 I've made my living in the construction industry, starting out as a member of the Boilermakers international. In 1965 I became a member of the International Association of Bridge, Structural and Ornamental Ironworkers and worked all the facets of the trade. As a journeyman ironworker I had the privilege to work not only anywhere in Canada where work was available, but also in the United States of America as well.

Because of mobility, I have had to depend on unemployment insurance only once in my working lifetime.

In 1976 I became assistant business agent of union Local 700 Windsor, in 1979 I was appointed general organizer for eastern Canada and then in April 1992 I was appointed by our general president as general vice-president and executive director over the Canadian operations.

I have touched briefly on the mobility within the construction industry. However, my main theme today will centre around the stability in the construction industry that we have enjoyed since 1978. I am sure others who will appear before you will in fact go into greater detail regarding mobility.

As I'm sure you are all aware, prior to 1978 the construction industry was in complete chaos. Contractors and locals alike across the province, or some, were trying to build empires. As such, you could have a collective agreement consummated in one part of the province and only a few miles down the road there could very well be a legal strike in progress. This actually happened in my home Local 700, which encompasses five counties: In 1967 we had a five-month bitter strike that took place in Windsor and Sarnia. However, 60 short miles away in the city of St Thomas, Ontario, our people, as well as building trades people, were busy building the new Ford plant.

1620

Somewhere along 1976 the Conservative government charged the construction industry advisory board with the responsibility of looking for a better way to stabilize the industry and in 1978 the Conservative government legislated into law accreditation and designation. Prior to 1978, the local unions across Ontario did in fact hold bargaining rights for the contractors that were signatory to their collective agreements. But, as I had mentioned, in 1978 the law changed and it was, in our case, the International Association of Bridge, Structural and Ornamental Ironworkers and the Ironworkers District Council of Ontario that were designated as the employee bargaining agency. With the designation came responsibility and accountability.

I'd just like to stop there, if I may, for a moment. I was a business agent for the local at that time. The international was not at all thrilled to become part of the designation. They didn't want to be charged with the responsibility, so to speak, for a bargaining agent, because you do have responsibility with it.

The local unions that had collective agreements with various contractors lost that bargaining right, if you will. However, they were compensated to the degree that with provincial bargaining came province-wide certification, so we didn't have to chase a contractor all over the country. He was certified. If he was certified in Windsor, he was certified in Thunder Bay.

To pick up where I left off, with the designation came the responsibility and accountability. In other words, if one of our local unions went on an illegal strike or a slowdown, it is the international and the Ironworkers District Council of Ontario that are responsible and

accountable to see that an illegal strike does not occur.

Mr Chairman and members of the committee, I draw your attention to 138.5 of the revised copy of Bill 80. It reads:

"(1) The parent trade union or a council of trade unions shall not, without just cause, assume supervision or control of or otherwise interfere with a local trade union directly or indirectly in such a way that the autonomy of the local trade union is affected.

"(2) The parent trade union or a council of trade unions shall not, without just cause, remove from office, change the duties of or impose a penalty on an elected or appointed official of a local trade union.

"(3) In an application relating to this section, the board must first consider but is not bound by any provision of a trade union constitution when determining what constitutes just cause."

If Bill 80 becomes law in its present form, you will virtually render the internationals ineffective if in fact an illegal strike were to occur.

I say that if an illegal strike occurs today, the international would immediately direct that local union to cease and desist and immediately return its members to work, as is demanded by the union constitution. If it doesn't comply, it faces disciplinary action via the union constitution, which prohibits illegal strikes.

Based on the language contained in Bill 80, the business agent of the local union could conceivably disregard the international's directive, claiming it is interfering with its local autonomy. We could end up in front of the Ontario Labour Relations Board or in a court of law, arguing as to whether or not the international has the authority to put an end to an illegal strike. At the same time, the illegal strike could very well continue until either the Ontario Labour Relations Board or the court renders a decision.

The international would be rendered ineffective and powerless because of Bill 80. At the same time, because of the designation order the international would be accountable for any and all damages resulting from an illegal strike.

The international and the district council are very concerned about the potential liability resulting from Bill 80. We are bound by our constitution to follow a course of action that is in the best interests of all our members, in Ontario and across North America. The unconstitutional action of a local union could lead to liability for all our members, yet Bill 80 would prevent the international from stepping in to protect the members' best interests, as our constitution demands. In the best interests of our members, this may force us to seriously reconsider our continuing participation in the existing bargaining structures.

Without stable bargaining structures, the construction industry as we know it today, the stability we know today, will be set back 20 years. The industry will once again be put in utter chaos. The resulting instability will not help produce one union job for our members. It will, however, produce an opening for the so-called merit shop.

I implore you to look at this legislation very, very carefully, because the labour legislation in its present form is in fact the envy of the other provinces in Canada, as well as of the United States of America.

If we are going to have Bill 80 jammed down our throat, then have it complaint-driven; I mean, if we're going to have one. I don't see the need of one. If you look at the various collective agreements in the province of Ontario, speaking for my trade, it has about a \$33-an-hour total package. I don't think anybody was jamming anything down anybody's throat.

As far as the trustees on pension plans are concerned, I will leave that to others to discuss. We don't have that problem. We're mandated by our general president that we're prohibited as international representatives from sitting on local union pension plans across Canada in the individual provinces. I will leave that to others to discuss; we don't have that problem.

I thank you for the time you've given me to present my views in opposition to Bill 80. If there are any questions, I would be only too happy to try to answer them.

**Mr Bill Murdoch (Grey-Owen Sound):** Thank you very much for your presentation. In the past the NDP, the government of the day, has normally been labour-driven, or we supposed it was, anyway. In your estimation, why would they bring this bill in then? Any idea?

**Mr Phair:** I have my suspicions. Whether it's a political payback for somebody, I don't know. I know this much: If the government of the day was either Liberal or Conservative and brought in Bill 80, interfering in the constitution of an autonomous international union, the NDP would be outraged. They would be outraged, as they should be.

**Mr Murdoch:** The reason I ask that is I'm trying to understand the bill, why it would be brought in by an NDP government. On the Conservative side, I'm trying to understand the bill and see if there are merits to it. Maybe I should support it. Maybe there aren't merits to it. What I'm hearing, especially from international unions, is that mainly you're all against it. It just doesn't seem to jibe. Then why did this government bring it in?

**Mr Phair:** I've heard that there are some who are disgruntled with their internationals, or that their internationals have used heavy-handed tactics on them. Now, if that's the case, let's get it out in the open. Who are they? I don't know.

I know in our organization we don't seem to have any problem with our local unions; we work harmoniously together. We don't interfere in their local bargaining, notwithstanding that we are the parent body and the parent on the designation. They elect their own bargaining chairmen. We'll sit in on the negotiations to assist if we can. Other than that, they do their own thing.

I keep hearing that somebody is being threatened by their international. I'd like to know who and I'd like to know what happened and when it happened. If that's the case, the Labour Relations Act, in its present form, has an avenue to deal with that, a mechanism to deal with that situation.



**Mr Murdoch:** That was my next question.

**Mr Phair:** You just don't unilaterally walk in and place a local union in the province of Ontario, or any province for that matter, under trusteeship or remove an agent because you don't like the colour of his hair. You'd better have a good reason.

1630

**Mr Murdoch:** So if my area local union had problems with its international, then there is a way. They would go to the labour board and they would have a chance to bring the international in and talk this all out.

**Mr Phair:** That's right. Under the appropriate section of the act, it says you will not coerce or intimidate anyone to join or not to join. I don't agree with any international coming in and just snatching somebody because they don't like the colour of their clothes or they don't like the person as an individual. I disagree with that. Our local unions are autonomous, I can appreciate that, but the act in its present form protects those local unions, I can assure you of that.

**Mr Murdoch:** We have commissions in Ontario, not in our unions, but commissions that come in, and if they don't like the colour of your barn or something like that, they make you tear it down. We do have the Niagara Escarpment Commission which probably has caused a bit of this trouble, because if you're under that jurisdiction you certainly wouldn't like that. That's another thing, but they do that.

**Mr Phair:** It's strange. There have been MPPs who have been kicked out of cabinet because they didn't support the government of the day's policy. We don't do that.

**Mr Mahoney:** Or suspended.

**Mr Phair:** Or suspended.

**The Chair:** Mr Murdoch, did you wish to leave time for Mr Jordan?

**Mr Murdoch:** Yes.

**Mr Leo Jordan (Lanark-Renfrew):** Mr Phair, I would like to draw your attention to the last paragraph on the first page and ask if you could just explain that a little more for me, where it says, "In other words, if one of our local unions went on an illegal strike or a slowdown it is the international and the Ironworkers District Council of Ontario that are responsible and accountable to see that an illegal strike does not occur."

**Mr Phair:** That's right. If one of our locals walked off a job, it's incumbent upon the international and the president of the district council to get those people back to work and get them back immediately, because if not, then we're subject to the damages. We are subject to damages, so it's incumbent that we get them back to work.

However, if Bill 80 comes in in its present form, like I said later on in the report, you could have an agent who might say: "Wait a minute, you're interfering. Yes, you may think I'm on an illegal strike. I don't, and you're interfering with my local union autonomy." All the while the job's tied up, the contractor's losing a fortune, and you know what the client's going to do: perhaps kick the

contractor off the job and could conceivably go non-union. There's an opening for the merit shop division to come in.

**Mr James Cole:** Can I say something on that?

**The Chair:** Certainly, sir.

**Mr Cole:** I'm Jim Cole, general treasurer of the Ironworkers international. A collective agreement is between the international and the district council. They are signatories to the agreement, so consequently for any violations under the agreement, any illegal actions, we're liable to suit and liable to damages; in other words, a suit could be brought against us.

There was a suit years ago down in the state of Illinois, where for three days the damages were over \$1 million. It was a nuclear powerhouse. The damages were not only for the men being off the job for the three days, but they also had damages computed with respect to if that plant had started three days earlier; on the other end, you also owed damages for that. So it's a very serious situation.

**Mr Phair:** Just as a comment also, we had a local union in this province that for approximately a year and a half had a terrible time with in-fighting. There were criminal charges laid, just a numerous amount of complaints went on. Our general president called me and said: "What do you think, Jimmy? Should we go in and take a look at this situation, because I'm getting letters sent here from people requesting that we put the local under trusteeship because of criminal charges."

My position to the general president was, "In this country a man's innocent until proven guilty, and until that time, until they're proven guilty, we're going to stay with those agents and the executive board of that local union and we're going to support them." We did not put them under trusteeship. Lo and behold, the agents and the executive board were cleared of all criminal charges and just won an election. But we did not put them under trusteeship.

**Mr Cole:** Let just add to that also. With respect to placing a local union under financial supervision, the clearest and cleanest-cut reason is when the local union is indebted to the international, seriously indebted in money. In that particular situation, besides everything else that Brother Phair just referred to, that local union was seriously indebted and remains seriously indebted, and we are still working with the local union rather than coming in with a heavy hand and taking over the local union.

The last thing in the world we as an international union want to do is to place a local union under supervision. We want them to be autonomous. We want them to run their own affairs. We do everything possible to work with them before we get into that.

**Mr Cooper:** Mr Phair and Mr Cole, thank you for your presentation. My first question is, have you seen the government's proposed revisions?

**Mr Phair:** Yes, we have.

**Mr Cooper:** All right. You alluded in your brief to the mobility issue, and with the dropping of the successorship, section 138.6, that should take care of the mobility problem. Agreed?



**Mr Phair:** I'm sorry. I don't have the revised copy in front of me. But you were saying if we dropped the—

**Mr Cooper:** The minister has assured people that he would drop the successorship section of Bill 80.

**Mr Phair:** Successorship?

**Mr Cooper:** And that should cure the problem of the mobility, the problem of people working between provinces or in the United States.

**Mr Phair:** No, and I'll tell you why. Even without that section in it, Bill 80 has the potential of causing chaos in the industry, and when it comes to mobility, we have to depend on our contractors. We have to depend on our clients to build, develop, put money into the province. Nobody is going to come in here and develop anything if there is the potential of labour unrest. The act, in its present form, keeps stability within the industry. We're just coming through a tremendous recession. Some will tell you it's over; I don't believe them, but they say it's over. I've got a bunch of members that'll agree with me too that it's not over.

I think the other thing we have to look at is that whether or not you agree or disagree with the free trade agreement, whether or not you agree or disagree with NAFTA, it looks like we're going to have one. It looks like Mr Bush is going to get his way, or Mr Clinton is going to get his way. I don't think now is the time to dismantle a structure that has worked very well, especially since 1978. International unions have been around—in our case, in 1996 our international will be 100 years of age, and probably 70 of those years I would say have been spent in Canada, parts of Canada. So our structure has worked well as an international.

We had turmoil prior to 1978 in the province of Ontario. That was corrected by way of accreditation, designation, province-wide certification. I don't want to lose that; I don't want to see us lose that. I know in our case, with the Ironworkers, we have not had a strike in the province of Ontario since—I believe 1970 was the last one we had, or 1971.

**Mr Cooper:** Have you seen the revisions put forward by the Canadian building trades department?

**Mr Phair:** I have. I was a part of the Canadian building trades department.

**Mr Cooper:** If they were implemented the way they're written, would that avoid chaos?

**Mr Phair:** I'm not sure that it would avoid chaos. It may weaken the bill to the extent that people may still want to develop—economic development in Ontario. I'm very concerned with the bill in general. Any time you try to fix something that is not broken, I have grave concerns.

**Mr Cooper:** One of the problems is that some people have suggested it is broken.

**Mr Phair:** I understand that, but with all due respect, I said earlier that if that was the case, please come forward and let's deal with it. Let's find out who they are.

**Mr Cooper:** Hopefully, they will come forward during the presentations. Thank you very much.

1640

**Mr Mahoney:** I heard the parliamentary assistant say earlier that this came about as a result of input received from the labour movement over Bill 40 that showed there were problems that needed to be resolved and here it is in Bill 80. Yet I heard the minister say yesterday that this came about as a result of things he heard in his many years as Labour critic, when he did the job I'm currently doing.

There's a little contradiction there that I don't quite understand. Could you, Jimmy, tell me how many supervisions, trusteeships or suspensions you have been involved with with your group in the last five years?

**Mr Phair:** None, absolutely none.

**Mr Mahoney:** In the last 10 years?

**Mr Phair:** In 1981, I was involved in investigating a local union in Calgary, Alberta. We had an unscrupulous business agent who absconded with \$1.5 million. We damned sure put it under supervision real quick, and got the money back too.

**Mr Mahoney:** I suspect the members of that union were happy you did it.

**Mr Phair:** Extremely happy.

**Mr Mahoney:** And you got the money back, so you solved the problem.

**Mr Phair:** That's right.

**Mr Mahoney:** How do you see that working now? Let's say we have, God forbid, an unscrupulous business agent somewhere in a union here in Ontario who is accused of going off with money. If Bill 80 passes, how is it going to work?

**Mr Phair:** I believe it still says in the revised copy: "The parent trade union or a council of trade unions shall not, without just cause, change the duties of or impose a penalty on an elected or appointed official of a local trade union." Again, you could get into a long, drawn-out labour board situation.

**Mr Mahoney:** Trying to prove what, just cause?

**Mr Phair:** Just cause, and the labour board will say: "Well, wait a minute. We'd better see what the court's going to do if in fact criminal charges are laid." Here you've got a local union that's being run by nobody.

**Mr Mahoney:** Do you know of any jurisdiction anywhere where a government has come in and arbitrarily interfered in the constitution of a duly elected democratic union?

**Mr Phair:** No, sir.

**Mr Mahoney:** Anywhere?

**Mr Phair:** No, sir, not in Canada. Maybe in some of the countries that are under dictatorship, but not in Canada.

**Mr Mahoney:** So we've come to the conclusion here, and there are a lot of people in the room who have told me this too, "We don't have a problem with trusteeships." I heard a figure in the whole construction industry that might have been something like seven in the last seven years; not full trusteeships, but some kind of disciplinary action that was taken, all of which were

resolved to the satisfaction of everybody concerned.

There's a system in place that allows for self-discipline within the trade labour movement, within the construction trade labour movement, that has been working well. We don't have supervisions, we don't have trusteeships, we don't have suspensions and we apparently don't have business agents running off with the money or whatever.

**Mr Phair:** No.

**Mr Mahoney:** Yet we hear people say, as you said earlier, that this is a payback to somebody. Could you tell me who? Can you really put a handle on that?

**Mr Phair:** In my personal opinion, there is a payback to Bob White.

**Mr Mahoney:** Let's just explore that. He wants to do what, expand the membership of the CLC?

**Mr Phair:** He has. He has a construction division that he is setting up, or that is set up, within the CLC.

**Mr Mahoney:** And the Canadian Federation of Labour, to which you are all affiliated—

**Mr Phair:** No, we are not affiliated.

**Mr Mahoney:** You are not, but most people in the construction trades labour movement are affiliated with the CFL. It started out, I guess, as a breakaway group many years ago in dispute over—as a matter of fact, I think it was during the time when a guy named Bill Mahoney was vice-president of the Canadian Labour Congress, interestingly enough. They broke away because they were unhappy with the way things were being done in the CLC. We've had a sort of a family dispute internally in the national representation at that level, is that accurate?

**Mr Phair:** That's correct, and it started over our brothers in Quebec. We were being raided as building tradesmen and the CLC either could not or would not—was powerless to do anything about it and all of the international unions got together and said: "We're certainly not going to finance a body that is in fact raiding us. We're not going to pay somebody to raid us."

**The Acting Chair (Mr Paul Klopp):** One minute, Mr Mahoney.

**Mr Phair:** What have we left out?

**Mr Mahoney:** Just explain to me, and for Hansard purposes, what you mean by the so-called merit shop.

**Mr Phair:** A non-union shop.

**Mr Mahoney:** Okay. So you think this would drive contractors and employers, because it would be almost a civil war, in some cases, going on in the construction industry, to the non-union sector.

**Mr Phair:** I sit on the Construction Industry Advisory Board, and other speakers who will appear before your committee today also sit on the Construction Industry Advisory Board. I have suggested to some of the contractors and associations of which it is made up, on an individual basis, that perhaps they should get involved in Bill 80. The response I got was, "We're sitting back, waiting."

**Mr Mahoney:** For what?

**Mr Phair:** At the first sign of crumbling we see,

we're going to challenge the designations and we're going to go on our merry way. We're going to do what we want. We're going to break the province-wide certification, and we're going to break the designated contracts.

**The Acting Chair:** Thank you, sir; time is up. The committee appreciates your points of view. You can follow along the discussions over the next number of weeks. I'm sure you're going to stay involved.

**Mr Phair:** Thank you.

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

**The Acting Chair:** The next presenter is the International Brotherhood of Electrical Workers. Would you please come forward and introduce yourselves; it looks like you have a number of people here. You have about half an hour. You've watched the proceedings and how they go. You can take up the full time—it's your time—but we try to leave some room at the end for questions from the three parties. Thank you very much.

**Mr Ken J. Woods:** Mr Chairman, members of the committee, my name is Ken Woods. I'm the Canadian vice-president of the International Brotherhood of Electrical Workers.

I've distributed briefs to all of the committee members. Don't let that material frighten you. There's a considerable amount of it, but there's a good reason for that. It's to illustrate to this committee that an international union doesn't decide at 1 o'clock on a Friday afternoon that it's going to put one of its locals under supervision or remove an officer. It's done only after very much heartbreaking and painstaking research before that action's taken. The excerpts in the material presented to you with that book merely outline some of the steps that have to be taken.

I'm not going to read our entire brief, but it is a pleasure, and on behalf of the 13,000 IBEW construction workers in this province I thank you for the opportunity to appear and to express our total opposition to Bill 80.

The IBEW is a diversified union. We represent members in all facets of industry: utility workers, public works, clericals, electrical manufacturing, paper mills, government, health care workers; all of these in addition to the 13,000 construction workers in the province of Ontario. We also represent another 10,000 industrial workers in this province and 67,300 workers across the Dominion of Canada.

Therein lies a big problem for us. Bill 80 perplexes our entire membership. Bill 80 divides the IBEW membership, because it takes our constitution, as it relates to our construction workers, and says it cannot be applied. What happens to our industrial workers? We're perplexed, and we wonder why.

It's been asked here, why Bill 80? I'm not going to be shy about it. I think Bill 80 is a direct result of it being payback time to Bob White and the CLC. I'll sit before this committee and say, yes, it's payback time, because we're outside of the Canadian Labour Congress.

It's become glaringly obvious in the sparse debate which has been held on Bill 80 to date that this bill has been brought about by a few dissidents in the building trade unions who have caught the minister's ear. We



don't know who they are, and quite frankly we don't care. We run a democratic organization, an autonomous organization. But I suggest to this committee that there's no question about it: If passed into law, Bill 80 would override the building trades' constitutions, remove all stability from the construction industry in this province and place the burden of sorting out the resultant chaos in the hands of the Ontario Labour Relations Board.

1650

Now, I ask you, does the Ontario Labour Relations Board want that added burden? Are they better equipped than the experience gained over hundreds of years in representing the construction industry by the Canadian leaders of the building trades unions?

Let's be specific. Before dealing with the encumbrance of Bill 80, which if enacted into law would place upon the operation of the building trades unions, all of them, particularly in the matters of jurisdiction—you have to be aware of some very key points.

The international union issues a charter to its local or lodge. The local or lodge has agreed, in accepting that charter, that it will be bound by the rules established in the constitution of the parent trade union. The local union charter sets out the type of work which can be performed under that charter and the geographic area in which that local or lodge may perform the work defined.

Further, the local union charter belongs to the international union. The local union exists because of the international, not the reverse. Consequently, the responsibility for the administration of our constitution has to remain with us. Somebody has to be in charge. Somebody has to be able to make a decision on behalf of its members. If that didn't happen, we'd have chaos.

I see that Minister Mackenzie in his opening remarks suggests that one of the reasons for the bill is that the local unions will not have the autonomy to do certain things if they are opposed to the international's constitution or policies. Well, we've got to remember that the international constitution was formed by the members of each organization at convention.

I ask again: What happened to majority rule? We've got a few people who are upset with the system, can't change it from within, and say, "Hey, labour relations board, you look after this for us." I say you're going to bring chaos into the construction industry.

Let's look at some of the material you have, and I'll briefly gloss over this. There's a construction site on the west side of Toronto called the Greenbelt compressor station. There are letters behind tabs 1, 2 and 3 in your binders. That station was being built to pump natural gas into the system in southern Ontario. I was sent a copy of a letter that the owner-client, Union Gas, sent to Nicholls Radtke, and I quote from its letter, that the Nicholls Radtke company had been instructed to recheck every aspect of the electrical installation to confirm that the installation is safe to operate and remained in an as-commissioned state, as previously had been determined.

That tells you one thing: That station had been run in, tested and ready to start pumping gas and the owner-client had reason to believe it was no longer in that state.

All of this was brought to my attention as the Canadian director, and I caused an investigation. The investigation proved that this job was three months behind schedule, plagued by late starts, early quits, extended coffee breaks, refusals to work overtime, incompetent and shoddy workmanship, and alleged drinking on the job.

It is interesting, though distressing, to note from the report and the investigation, which comes from the excerpts of the superintendent's diary, that the business agent in charge of that job saw nothing wrong with the men taking an hour for lunch, which in the construction industry is half an hour normally, and said that the drug problem was nation-wide. It was only after I got all this information that I had to report all of this to my superior to get permission to put that job under supervision.

If Bill 80 had been law, what would have been the scenario? I suggest that with Bill 80 as it's presented, and I still don't know which version we're working with, we would have had utter chaos. While I would have been going through the bureaucratic hoops before the Ontario Labour Relations Board, someone could have been hurt or killed or we could have lost the job to the non-union, because Union Gas had indeed threatened Nicholls Radtke that if that job wasn't shaped up, they were going to ship out and the union jobs along with them. That's the facts of life.

We just point this out to say we just don't go around the province as Canadian directors saying, "Today we're going to take this local or we're going to take that job." That's bull. We have better things to do, more productive things to do than to put local unions under supervision or remove officers.

It's been asked in here, how many have had their jurisdictions altered in the last five, 10, 20 years? We've asked the minister to provide us the statistics on that. He can't or he won't. What wrongs is Bill 80 attempting to right? We would like to know. Where is there any proof that would induce the Minister of Labour in the province of Ontario to bring forward the most ill-conceived, pro-non-union legislation ever dreamed up in the western world? We need answers and we would like to have them.

You've got other appendices; they're alpha-numbered A through S. This is just to plainly point out to you that we've got an ongoing problem at the IBEW, the 14 construction locals in the province of Ontario, over jurisdiction and that problem has been ongoing since 1988. This is hardly a case that at five minutes to 5 o'clock I'm going to say, "By 10 after 5, a local's going to be under our jurisdiction." We have tried internally to sort this out and we have not been able to do it. It came about as a result of one local, and it's been referred to earlier. Local 1788, and they're here this evening, had been granted a charter to represent members employed directly by Ontario Hydro. Over the years and through negotiations, it was changed to encroach upon the jurisdiction of the other 13 IBEW locals in the province of Ontario. Since 1988, there have been several meetings to try to mediate that dispute and get it back on the rails so we could get some agreement of parties, but to no avail.



The international's position since 1988 has been consistently that when the work is being done by employees directly hired by Ontario Hydro, it is a jurisdiction of Local 1788. When contracted out to the private sector, it is a work of the local union whose territorial jurisdiction is where it's being performed. With the downturn of the economy, this problem has become more and more visible. Jobs are becoming more and more scarce. It is a problem that is out there and it's real.

The remaining tabs on that alpha series of appendices are merely letters from local unions involved in this dispute either demanding that I do something about this—and speakers who come behind me are going to say, "Woods asked for those letters," and yes, Woods did ask for those letters, because Bill 80 was on the paper and I wasn't going to throw fuel to the fire of the NDP government to say, "Well, there we go again." The majority of locals have responded and said, "Yes, straighten the mess out."

This just illustrates that jurisdiction is a very, very complex matter. Contrary to what the minister has been told, international unions are not running around this province willy-nilly placing local unions under supervision. Again we have to ask, is the OLRB better equipped than 100 years of experience gained by the leaders of the building trades unions in this province? Does the board want that responsibility?

Finally, other than the legal community, if Bill 80 is passed, who's going to win? It's been suggested that Bill 80 is a direct contravention of ILO Convention 87, and it is. The International Labour Organization Convention 87 gives the right to people to organize, to formulate rules, to make their constitutions, and it says that the public authority has no right interfering or restricting the lawful exercise of those rights. That's an ILO convention ratified by Canada.

1700

Part of our constitutional rules clearly gives the right to discipline members, to discipline officers. Do not the Elks, the Kiwanis, the Knights of Columbus and political parties have rules to govern their affairs and discipline their members if they get out of line? We've asked the minister for proof where we've abused our locals. We've been offered no proof. We suggest he has none.

He's been asked by members of this committee tonight, "How many supervisions have you had in the IBEW in the last 21 years?" In the last 21 years, in all of Canada, four supervisions. Two of them were requested by the local union, and it was the same local twice, because they couldn't handle their financial affairs. So in 21 years, the time I've been involved with this international union, we've had two supervisions imposed by an international. The last trusteeship in Ontario was 15 years ago. I suggest to you that this is hardly an orgy of unbridled interference in the affairs of local unions.

You've got behind tab 5 a sample letter which is necessary in my organization for me to be able to put a local union under supervision, and contrary to what the minister has been told, this local was not put under supervision because they had a kids' party. If you note behind tab 5, that letter says there were eight multifaceted

charges against the local union for whatever was going on that was contrary to the constitution, laws or bylaws of that particular local union.

Trusteeships are put on only when absolutely required. In our organization, the international president, at the recommendation of the Canadian director, which is myself, imposes the trusteeship. That trusteeship is reviewed by a different body every six months, our international executive council.

Every organization has to have rules, someone has to administer those rules and someone has to be in charge, and our members and the members of every other building trades union have every legal and moral right and reason to expect that our rules will be adhered to in all respects and by all members, or the defending who put his hand in the air or her hand in the air and agreed to abide by the rules and the constitution is subject to the discipline set out in those constitutions. What disciplinary rules does the NDP have when its members step off the line? We wonder. Just think about it.

We're being singled out on this, and yet you're going to hear presentations from other organizations that will suggest to you that there are other industrial unions, unions that belong to the Canadian Labour Congress. They've got constitutions, they have laws. This legislation doesn't dump all over them. Why not? Give us a break.

The courts in this country have been loath to meddle in the affairs of international constitutions. In your binders behind tab 6, there's an Ontario Supreme Court decision rendered by Mr Justice Reid taken against an application by some members in the province of Ontario for an injunction to stay a decision of the Canadian vice-president. Mr Justice Reid—I think it's very important—on page 2 of that decision said:

"Courts as a rule refrain from interfering in the affairs of unions or, for that matter, of other organizations where an appeal or equivalent alternative remedy exists."

Further, at page 6, Mr Justice Reid said:

"I think that it is by now accepted by courts, particularly those called upon to exercise a supervisory role, that in general, the internal problems of unions should be settled internally. If the courts were too ready to intervene in the internal affairs of unions, they would, in my opinion, demonstrate an inappropriate disrespect for the union movement and all that it has achieved."

I ask you, Mr Chairman and members of this committee, if the courts are so very reluctant to interfere in our internal affairs, why is this government? What is going on here?

I won't deal with the last section. As a matter of fact, I'm not sure which bill we're dealing with here, to tell you the truth. The last section on trustees over health and welfare and pension plans—our union, the IBEW, is involved in that and, again, it depends on which version of the bill we're dealing with, but it either suggests that a majority of the trustees come from the local unions in Ontario or the majority of the unions.

If you could tell me, depending on what set of rules—because we have members in Ontario paying into an IBEW pension plan—because we've got 6% of the

contributors in Ontario that should generate a majority of the trustees, whether even we should have 6% of the trustees. If you've got 6% of the trustees, how does the minister intend to regulate 6% of the trustees? We don't know.

We thank you for your time. We'd be glad to try and answer any of your questions.

**Mr Cooper:** Thank you, Mr Woods, for your presentation. As for that last statement, what they're discussing now within the ministry is a proportionate number. If it's 6% represented in the province of Ontario, then they would carry something like 6% on the benefit plan, when you're talking Canada-wide or an international benefit plan, rather than the majority. That's the one thing they're discussing, so that Ontario wouldn't carry a majority if they don't have the majority in the benefit plan.

**Mr Woods:** But even at that—

**Mr Cooper:** They're talking proportionate.

**Mr Woods:** —how do you get 6% of the trustees on pension?

**Mr Cooper:** I realize that's something that will have to be worked out. My first question is, have you seen the proposed revisions?

**Mr Woods:** Yes.

**Mr Cooper:** And if you have, is your brief towards the proposed revisions or towards the original Bill 80?

**Mr Woods:** We don't know. As I said, I'm not too awfully sure just what version we are addressing. I've heard it both ways and, believe me, I wish I knew.

**Mr Cooper:** The first thing I'd like to state is I can't see where you see that Bill 80 is an accusation. Obviously you've stated that there haven't been many jurisdiction disputes and there haven't been many trusteeships. I don't see where this is going to create chaos by giving more fairness to the workers in the province of Ontario. I don't see where the chaos is going to come just because there's more fairness.

**Mr Woods:** The fairness is there in the beginning. This is exactly our point. Our members set our constitutions at convention. They've agreed that, "By God, I'm a member of this organization; I'll live by the rules." Why should we go outside of our own constitution? It's worked well to date; very, very well.

**Mr Cooper:** Thank you.

**Mr Mahoney:** Mr Woods, sorry I was not here for the beginning but let me, first of all, compliment you. This is a very, very thorough analysis and a very helpful brief for many of us.

Bill 80 has been hard for a lot of people around here to understand because we haven't been able to get a handle on why. Whether you agreed or disagreed with Bill 40, at least you could understand why it was being done and where it was coming from.

Could you answer the question that if this is so good for the construction sector, why would they not apply this to the international unions in the industrial sector, ie. steel and others?

**Mr Woods:** I'm flabbergasted, to tell you the truth.

Mr Cooper earlier on said that Bill 80 seemed to be part of Bill 40. I don't ever recall that, but I'll just advance this: Bill 40 was good for the trade union movement generally. Bill 80 is bad for just one sector. I made it in my remarks. I have no illusions why Bill 80 is directed at the international building trades unions: It's payback time to the CLC. Let's not kid ourselves.

1710

**Mr Mahoney:** But if the government can simply pass legislation that allows it to arbitrarily and unilaterally interfere with a duly passed constitution in a democratic union within the construction industry, what is there, in your view, that might stop it from expanding that either to the industrial unions or even to the CLC itself? I don't want to be overly dramatic, but isn't this a little bit like Big Brother sticking its hand in somewhere where it need not go?

**Mr Woods:** Absolutely.

**Mr Mahoney:** How do you think Leo Gerard would feel about this if we brought it into steel?

**Mr Woods:** I imagine he'd be at this committee or he'd apply for time at this committee.

**Mr Mahoney:** Why is he not here now?

**Mr Woods:** I have no idea.

**Mr Mahoney:** What do you think?

**Mr Woods:** I think he isn't here because he doesn't want to be here. He'd like to see us get it stuck to us because we're not members of the CLC.

**Mr Mahoney:** What do you think the main role of the OLRB is or should be in our society today?

**Mr Woods:** To deal with matters on applications of certification, unfair labour practices when such are made in certification proceedings and, as it's constituted, the OLRB's role in determining jurisdictional disputes which are done within the guidelines established by the agreements of record by the international building trades unions in any event.

**Mr Mahoney:** They're going to have a lot more to do with this, aren't they?

**Mr Woods:** Are they ever.

**Mr Mahoney:** Thanks very much.

**Mr Woods:** I wouldn't want the job, sir.

**Mr Murdoch:** You're going to wonder where I'm coming from, because I don't understand this bill yet either and I haven't decided which way to vote on it even. That's why I'm here, to listen to you people. It seems funny, ironically, that the NDP government would support stable funding, which is creating a lobby group or a fatherhood or a motherhood group at the top for the farmers, and then they come around with this bill and it looks like they're trying to rid of the top group and give it back down to the locals. So I don't know where they're coming from and I hope some day somebody will explain it.

But to get it on the record, and I think you have a copy of a letter that was sent to me from your local, and you mentioned it, 1788, and they do complain. We've sat here and we've listened to other organizations like yourselves say, "We don't know where the problem's



coming from." I guess this is one group that does have a problem with your organization, and I think it should be on the record that they do and they sent me a letter that their 503 members voted in support of Bill 80. So I guess there are some people out there upset. Now, they're just saying that you interfere and things like that, but you did mention in your presentation there was a problem there and you may want to say a few things. But I think it should be on the record that they did complain and they sent a letter to me about it. So they have a right to do that.

**Mr Woods:** Absolutely, they have the right to do that and I'll uphold their right to do that, but in the meantime there is a genuine problem in the real world and it has to be dealt with in the real world. The only way that it can be dealt with in the real world is per our constitutions and, as I said before, the buck has to stop somewhere.

**Mr Murdoch:** They may come and make a presentation.

**Mr Woods:** And I hope it's not going to be at the OLRB, because they scare me.

**Mr Mahoney:** Better than the minister.

**The Chair:** Thank you very much. I'd like to thank the International Brotherhood of Electrical Workers and each of you gentlemen for appearing before the committee this afternoon. Your verbal and written presentations become part of the official record of the committee and we trust that you'll stay in touch with the committee either through the clerk or through any of the sitting members of the committee as we continue the process of hearing Bill 80. Thank you very much for taking the time to appear this afternoon.

**Mr Woods:** Thank you, Mr Chairman.

WALLY MAJESKY

**The Chair:** The next scheduled witness is Wally Majesky. Good afternoon, sir, and welcome. You've been allocated one half-hour for your presentation and I know that the committee would appreciate at least half of that for questions and answers.

**Mr Wally Majesky:** Let me explain who I am. I'm not here speaking on behalf of any organization. I have been a member of the IBEW for 42 years, probably longer than Brother Ken Woods, so my credentials in the IBEW run long and deep.

I guess I was kind of amazed, listening to—reading Hansards and reading the criticisms by Mahoney, kind of wrapping himself in his father's reputation. Too bad Bill Mahoney wouldn't be living, because I would bet a million dollars to a penny he would probably support these amendments, but we'll never know that.

**Mr Mahoney:** Don't go betting on that one, Wally. You're out to lunch on that one.

**Mr Majesky:** There are no free lunches, my friend. I guess the problem I have is, I quite frankly don't see Bill 80 as infringing on anything. I quite frankly think Bill 80 is a question of union democracy. It's a question of no one imposing their will on local unions. I'm going to kind of bring you down to where I was involved, so I can't speak on behalf of the boilermakers or the painters, but I'm going to somehow take you through how Brother

Ken Woods very clearly, somehow, didn't talk about the last trusteeship in 15 years.

Fairly obviously, in 1977, Local 353 had a strike around the whole question of work-sharing. At that time, Brother Ken Rose, who was the predecessor to Ken Woods, arbitrarily said—your local union bylaws clearly say that for ratification of any kind of agreement, you call a general meeting and you vote it up or down. Well, for some reason, the international vice-president didn't think that was quite right. He thought we should have a mail-in ballot. I thought democracy says you respect what the people have in the local union. Well, they had a mail-in ballot, and fairly obviously it caused a lot of friction in the local union. No question where I was on the issue: I was totally opposed.

So that resolved into a situation where the international vice-president came down to the local union to explain his position. I guess he had a rough ride, and I led the charge, quite frankly. I don't like anyone imposing something called the constitution in the best interests when you override the constitution of a local union bylaw.

Well, I guess some people take exception to that, and ultimately the local union was put into trusteeship. Some of the rationale for it was that the international vice-president was abused in kind of a vile manner. Well, it's fairly obvious that in democracy, one has the right to dissent. That's a tradition we have in this country, and if I get up and disagree with you, I don't consider that to be abusive and vile.

I have a kind of anecdotal thing: I guess if the IBEW were to sit in the House at any given point in time and were the Speaker of the House, and seeing the level of discussion in the House, I would imagine they'd put the House into trusteeship for 100 years because of, quite frankly, that kind of discussion and dissent, which is healthy in a democratic society.

But I guess really what I find offensive about that is that when we had a situation in the local which was put into trusteeship—and Brother Ken Woods is quite right; there are eight pages. But to cite that a local union expends \$10,000 for a Christmas party and didn't get the authorization of the international office as a reason for putting into trusteeship, quite frankly, I don't think anyone has the right. The local union expended its moneys, duly supported by the local union, on a Christmas party. That's like motherhood and apple pie.

But it's kind of interesting, the reasoning behind that: "You didn't get the authorization." Well, they never had the authorization for 20 years, and quite frankly I'd make the argument that no organization can come into a local union and somehow say, "If you're going to give to multiple sclerosis or to pensioners or to a Christmas party, you have to have our authorization." It's not their moneys; it's the local union's money.

So it's kind of interesting when one talks about—and I heard someone saying, "Wouldn't it be awful if the government came in and rewrote your constitution?" Well, there's kind of an anecdotal story to this. Not only was the local put into trusteeship, but lo and behold, during the trusteeship, the international took it upon itself



to rewrite the local union constitution and bylaws, to reaffirm the mail-in ballots and, more interestingly, to hold off elections for two years, because when the trusteeship expired in 1979, you couldn't hold elections for the next two years.

1720

It's kind of interesting when one thinks about the dynamics of what happens. I hear Brother Ken Woods talk about democracy. I'm very much interested in democracy, but I'm kind of interested when you can take the whole executive board and lay charges against them, and one of the charges is that you attended a meeting in the province of Ontario where you were opposed to the whole question of provincial bargaining. That is deemed to be unpatriotic and not in the best interests of the international. Quite frankly, I have the right to attend any meeting I want. I have the right to dissent. Ultimately what happens is that not only was the local put into trusteeship, the officers were removed, the president was removed, suspended and banned from office for five years and three other officers were suspended and banned from holding office for five years.

This isn't some pie-in-the-sky kind of a concept, when you say eight pages, but one of the reasons is expenditures for a Christmas party. The second reason is someone attended a meeting because there are a bunch of people out there who are opposed to provincial bargaining. I don't quite frankly think that's democracy. I think that's somehow a threat to democracy and I take very strong exception to that. There's an irony to it. I was there, for some reason they left me alone. I don't know why they didn't suspend me; but I guess I was small fish at that point and they didn't suspend me.

I guess the point I'm trying to make is that this has nothing to do with some of the things people are talking about. It doesn't do anything for me, and I read Hansard and Mr Mahoney said that I wouldn't be able to work in the Bay of Quinte. Yes, I think I could. It doesn't do anything for my mobility, quite frankly. I can still travel around if I want to. I don't think it's an infringement on any kind of democratic rights or whatever, but I'll tell you what I take exception to. I don't like anybody coming in and overriding something where I'm a part of an organization and that organization somehow voted to do something, and then, under something called the best interests of the international, imposing a trusteeship. Quite frankly, I hear someone saying, "What's in it for Bob White?" There's not diddly in it for Bob White. This doesn't do anything for the industrial unions, for Leo Gerard and whatever.

I think what drove this whole process is this whole question of union democracy, the respect of people's rights and everything that goes with it.

I find it ironic in one of the presentations that was made that this was one of the reasons the building trades pulled out of the congress and legitimately there's a very serious problem in the province of Quebec. The second reason that the building trades pulled out of the congress is that they didn't like the representation issue. They didn't like one local having one vote and being overwhelmed by CUPE, and they wanted proportional repre-

sentation. It's funny how democracy works. Ken Woods, ironically, is elected on that same principle. Every five years now he will go there, if someone should run against him, and one local, one vote is the kind of process they have.

So I have some problems when people talk to me about democracy and everything else. I think what's driving this process is just the whole question of democracy, abuse of democracy and the rights of individuals to make those decisions. If you've got your hand in the till, my friend, you should go to jail—no question about it—if some local secretary-treasurer takes money. I don't think that's the issue here. I think the whole issue was here eight years ago. I read Hansard eight years ago. I will give you an article that Wilf List wrote in 1977, 1978, 1981 and 1982. This thing has been around for a long time, and for the very first time it was put forward. I'm not saying this is in the majority. I'm not making that case at all. And Ken may be right, there were four trusteeships, but I'll tell you, when I was in that local one trusteeship for me was enough. I don't like being trampled on. I don't like to have my civil rights abused, and I don't like anyone telling a local union what's in their best interests when the local union membership made those decisions.

I understand the constitution. Ken is right. No question about it. You go to an international convention, you argue it out, you have the right to make whatever changes. It's not easy and you can do that, but what I don't like is someone coming in and imposing their will upon me. Those are my presentations and it's open to questions.

**Mr Mahoney:** Wally, you make a good argument for the people against it, interestingly enough. I'm also quite impressed that you'd take all this time to read Hansard, and if you don't mind, I'll do what I want with my Dad's reputation.

**Mr Majesky:** You can.

**Mr Mahoney:** You bet.

**Mr Majesky:** You quoted him, so I thought it was only—

**Mr Mahoney:** Let me tell you there were some quotes that were very interesting because in the 1950s and the 1960s this was quite an ongoing debate, the role of the international versus the national, and there were a lot of people in steel at conventions who were arguing that they should break away as Bob White subsequently did with auto, God bless him. Interesting as hell now, though, that the president of steel in Pittsburgh is a wonderful man, a Canadian, wonderful guy.

**Mr Majesky:** You never met him, but he did something for your mother in the way of a pension.

**Mr Mahoney:** Yes, he did. That's right.

**Mr Majesky:** Just shows you I've read Hansard.

**Mr Mahoney:** That's good. I'm impressed. Of course, Leo is hurrying off and scurrying off down to Pittsburgh as well.

**Mr Majesky:** The number two guy.

**Mr Mahoney:** So there's an ongoing relationship with the international. One of the quotes, Wally, that I used

that you may or may not have come across was that the real issue here is not who bosses who; the real issue here is success for the members. It's jobs. It's getting on with economic growth. It's building an economy. It's building a union. It's increasing union dues so that the union can better serve the people it serves. It's amalgamating. I was even in Sudbury during the raids. It's even that.

**Mr Majesky:** I believe there were some Nazis there.

**Mr Mahoney:** I hear there were Nazis up there, yes.

**Mr Majesky:** It was in the paper.

**Mr Mahoney:** I understand that. I might tell you, those were quotes not only from my father but from other labour leaders who understood that the argument was not whether a paycheque came from Pittsburgh; the argument was whether or not they truly had local autonomy.

Let me just ask you. You say that you totally object to someone coming in and telling you what to do in relationship to the business you want to carry on in the local that you're involved in. That's what I hear everybody saying who's opposed to Bill 80. So what's the difference if an international comes in—and you heard about the record of the IBEW in 21 years.

**Mr Majesky:** Do you know what the answer is?

**Mr Mahoney:** I'm going to give you a chance to answer it when I'm finished asking it. You heard about the record in the IBEW. You heard about the record of the deputation before that when Jimmy came forward. You've heard about the number of cases we're dealing with here.

If it's not the CLC issue, and let's say I accept that it's not—I'd find it funny as to why Bob wouldn't be busy with many other things rather than be involved in this—what the hell is driving this? Is it Wally Majesky? Have you got your nose in the minister's face, Wally? Are you telling him to do this?

**Mr Majesky:** Why the hell would Bob listen to me, for Christ's sake? I'm telling you of my personal experience and how I was affected. I'm not talking about whether it's in Bob White's best interests. Quite frankly, Bob White and CUPE can raid IBEW if they want to, without the amendments. That's not driving the process. All I said was, I thought that the actions, when I was involved in my local union, were arbitrary and a contradiction of union democracy. So you can read into it Leo Gerard, you can read it as a payback to Bob White or Buzz or whatever.

My final comment, when you say your dad was a giant in the trade union movement—

**Mr Mahoney:** I didn't say that.

**Mr Majesky:** Well, I'm saying that because I recognized him and Larry Sefton and Lynn Williams. I only wish that the IBEW had the kinds of democracy that your father pioneered, still within the context of the international. The Steelworkers are still within the framework of the international.

**Mr Mahoney:** That's right.

**Mr Majesky:** The District 6 director and the national director had all kinds of autonomy to do whatever they wanted, and I quite frankly think it's a good model. I

don't just think it exists in a lot of other places.

**Mr Mahoney:** Wally, I can tell you that within that model, the Larry Seftons and the Lynn Williamses and the Bill Mahoneys would strongly object to any government, notwithstanding an NDP government—

**Mr Majesky:** I—

**Mr Mahoney:** —let me finish—coming in and—my dad's not here, but Larry is and Lynn is, and I'd like to hear from those people. I'd like to hear from Leo how he'd feel if this government decided to expand Bill 80 outside the construction industry into the steel industry. I'd be delighted to hear how he felt about that. I don't believe for one minute that any of those democratic people you talk about—and you're right, they all were giants—would stand for this government interfering and changing their constitution the way they're doing in Bill 80.

**Mr Majesky:** Thirty seconds: If Local 1005 or 6500 made a decision of how they wanted to ratify a contract, I'll bet you my life that Lynn Williams or Larry Sefton wouldn't come in and say, "Screw your local union bylaw, but we're going to tell you how you're going to ratify that agreement." I'll tell you that, I'll bet a million dollars to a penny, and if I am wrong, you contradict me whether the Steelworkers would come into Sudbury or Hamilton and tell them how to ratify their agreement.

**Mr Mahoney:** The fact of the matter is that it hasn't happened.

**Mr Majesky:** That's right, because they've got the autonomy.

1730

**Mr Mahoney:** The fact of the matter is that there's a very good working relationship. The national director in steel gets his money, in American money, from Pittsburgh—

**Mr Majesky:** I know where he gets it from.

**Mr Mahoney:** —and has for years and there ain't a problem. The fact that we've sent such good-quality people down to Pittsburgh in steel—

**Mr Majesky:** Are you taking credit for that or what?

**Mr Mahoney:** No, I'm not taking credit.

**Mr Majesky:** Larry Sefton would roll in his grave to hear you take credit for the success of the Steelworkers, for Christ's sake.

**Mr Mahoney:** I'm not taking credit for that.

**Mr Majesky:** See you don't suck and blow at the same time.

**Mr Mahoney:** Hey, Majesky, I'm not taking credit for that, but let me tell you something. When I say "we" I'm talking about Canadians.

**Mr Majesky:** Okay.

**Mr Mahoney:** I'm talking about Canadians who can be proud of the record that's there.

**Mr Majesky:** They should be.

**Mr Mahoney:** The point is very simply that the industrial unions, never mind rolling over in graves—there will be war on the front steps of this building if this government tries to go in and arbitrarily change their



constitutions, and you know damn well there will be, so don't tell me there won't.

**Mr Majesky:** If you're going to tell me there's going to be war over Bill 80 and those three Mickey Mouse amendments, then you're smoking something. I don't know what the hell you've got, but there ain't going to be a war around this.

**Mr Murdoch:** I haven't had a chance to talk to you before, but you really haven't answered Steve's question, though.

**Mr Majesky:** Which is?

**Mr Murdoch:** What do you think is driving this bill? We've sat here today and we've heard from different internationals that say they don't have a problem. You did have a problem in your union and that's fine—

**Mr Majesky:** That's what I think is driving the bill.

**Mr Murdoch:** Just your problem?

**Mr Majesky:** No, that problem, that question about some people having to be put into trusteeship.

**Mr Murdoch:** But we haven't heard of any others, though. That's the problem.

**Mr Majesky:** There are other locals, but I'm sure they'll show up in the next day or two. I don't want to speak on their behalf. I came down to speak to my own personal experience in my local union.

**Mr Murdoch:** All right. But you think that's why—

**Mr Majesky:** I would put it this way. If the trusteeships weren't imposed, I don't think you'd see these amendments.

**Mr Murdoch:** The argument is, though, that when you sign up as a union member, you sign up to your own local union, and you know what the constitution says, you know what the rules are. If you want to play the game, that's the way you play it. If you break the rules, that's what the international's there for, to come down and keep peace within the market. Sometimes I guess they have to do that. But if we have this bill, they say there's going to be chaos out there. What about that?

**Mr Majesky:** I don't think there's going to be chaos out there, but I can't disagree with Brother Ken Woods that there is a constitution internationally and that those are the overriding rules. Those are the kinds of principles that—whatever. If I don't like them, I have on occasion, as Ken knows, gone to the international, got my head kicked in, couldn't change them. I don't have any problems with that.

In the case of the local I'm citing, I took strong exception to how they handled that specific issue. That's all I'm saying. I'm not arguing that he's a bad person or they shouldn't have a set of rules. I honestly believe they should. All I'm saying is—he's right; seven pages of charges. I wouldn't mind if they said someone was stealing money and took a trip to Puerto Rico, but to cite as one of the examples that you held a Christmas party and didn't get their authorization—why the hell should I have to get anyone's authorization? It's motherhood and apple pie.

**Mr Murdoch:** I can agree totally with that, but do you think that's a strong enough issue to have Bill 80?

Most of them are saying: "Let's just scrap Bill 80. We don't really need it."

**Mr Majesky:** The thing that really bothers me philosophically is not that. If you put a local into trusteeship, that's one thing; in 12 months it's over, that should be the end, and the membership will then decide what it wants to do. What I found kind of repugnant is that someone said, "Would you like the Ontario Labour Relations Board to rewrite your own constitution?" What I quite frankly took exception to was someone coming in and saying, "Hey guys, during this time you were in trusteeship or whatever, we rewrote the bylaws." I said, "With whose authority?" "Well, with ours. We have it. It's in the best interests of the international union."

I don't like that. It goes against my grain to say, first of all, "You will not have elections in this local for two more years." The elections proved fruitful and ultimately all these people who got suspended got elected and they rechanged the bylaws and democracy rules again, but I just found those actions totally alien to me.

**Mr Murdoch:** Would it not be better, though, to try to change that within your union, within your local, when you go to international, rather than have a Bill 80 and have government interference?

**Mr Majesky:** Look, I'm a great believer that every four years you take a whack and you go down there and say, "Hey, look, why don't we curtail the rights of the international unions to do that?" I've taken a whack at it and quite frankly wasn't overly successful.

**Mr Murdoch:** But maybe next time.

**Mr Majesky:** It's a very overpowering process to go down to an international convention and try to change it. I've done it. I abide by the rules and I took a whack at it. As everyone knows, I will argue the whole question of Canadian autonomy, that the IBEW should have a Canadian convention. I believed it then and believe it now. The fact of the matter is that I can't make that political change. I keep arguing, I keep arguing and I keep losing.

**Mr Murdoch:** The concern I would have is Bill 80. That's government interfering. I don't think you need that. You'd be far better off if you had less government in your lives.

**Mr Majesky:** If you're asking me a question, if the track record in the trusteeship had been clean, I don't think you'd ever see these amendments. Someone can read into it whatever the hell they want: that this is a payoff to Buzz Hargrove, Bob White, Leo Gerard—

**Mr Murdoch:** I don't know about that. I'm here just to listen. Thank you.

**Mr Cooper:** Mr Majesky, do you think your problem would have been solved if Bill 80 had been in effect at the time of the trusteeship?

**Mr Majesky:** Sure. You would have had to give some justification; you just can't come in and put it into trusteeship. Yes, I think it would have made it a lot tougher to do that.

**Mr Cooper:** Do you feel Bill 80 unjustifiably interferes with international constitutions?



**Mr Majesky:** Well, it's fairly obvious that it impinges upon it. It's fairly obvious the international will argue, "We can do everything in our best interests," which is how they define it, and what this then says is, "No, we don't quite think it's in the best interests if you do something to hurt the local."

Yes, I think there's some impingement, but in a society there's got to be protection for someone. I don't think the be-all and end-all is the IBEW; neither do I see the be-all and end-all is the government. But if you see an abuse, there's got to be some resolution, and I think it's a fair compromise. I don't think it's that substantive.

**Mr Cooper:** We're just lucky we have extra time here to question you. On the trusteeship, that's complaint-driven. On jurisdiction, the way it's written right now, it has to be justified to the OLRB before they can change jurisdiction. Should that be complaint-driven also, as has been suggested by certain people?

**Mr Majesky:** Quite frankly, I'm not quite sure.

**Mr Cooper:** But one of the comments that was made was that you'd be taking up, unnecessarily, a lot of time at the OLRB, because all the jurisdictional disputes would have to go to it first, whereas if it was complaint-driven—

**Mr Majesky:** First of all, the jurisdiction in the construction trades has been a God-damned fiasco per se. That thing's been around since time immemorial. Would this make it worse? I didn't give it that much thought.

The one area that really concerned me about this bill was the whole question of democracy and protection of one's rights, and I really haven't put my mind around whether it would make it worse on the whole question of jurisdiction. I think the modification in the amendments meets some of the concerns.

**Mr Cooper:** All right. It's been said that once Bill 80 comes into effect it will create chaos in the construction industry. Is this going to mean that everybody's going to be running out fighting trusteeships or fighting jurisdictional battles? Where do you see them saying the chaos would come in?

**Mr Majesky:** I don't think there's that much chaos

out there. Let me tell you, the construction unions have got enough God-damned problems with non-union contractors without the amendments, so I don't think there's chaos out there for "the union movement" per se.

Let me tell you, the jurisdictional disputes that are out there, no one likes to talk about them. Yes, there's a dispute mechanism, but Jesus Christ, there's more stuff goes to the board on jurisdiction in the building trades. I think that is an issue that's never easily resolved anyway, and it's always been there. I'm not coming down on the side of whatever. There's always the whole jurisdictional—and I don't think this would exacerbate that per se, from my perspective.

**Mr Cooper:** Not to put words in your mouth, but what you're saying, basically, is that once Bill 80's passed, the construction industry will get back to work and it will stop this internal problem.

**Mr Majesky:** Listen, quite frankly, the construction industry has a hell of a lot more problems than this. They've got 50%, 60% of their membership out of work. They've got food banks in local unions. I've never seen it in my 42 years as a member. The economy of the country is extremely important. I wouldn't make a big issue that somehow this is chaos. I don't think it is. It's a difference of opinion, no question about it: mine versus the international union, and it's always been there. It's no great secret about my difference of opinion. In this case the IBEW and I disagree. That's fair; I don't have any problems with that. But I do have some problems when disagreement is then taken out of context: "Because you disagree, Wally, we'll think of some way of" whatever, taking some action.

**The Chair:** There is time remaining for questions. Any further questions from committee members? No?

I'd like to thank you on behalf of the committee, Mr Majesky, for appearing this afternoon, and I trust you'll stay in touch with the clerk of the committee as we continue the proceedings in Bill 80. Thank you very much.

We are adjourned until Monday, November 22, at 3:30 pm.

The committee adjourned at 1740.







## CONTENTS

Wednesday 17 November 1993

<b>Labour Relations Amendment Act, 1993, Bill 80, <i>Mr Mackenzie</i> / <b>Loi de 1993 modifiant la Loi sur les relations de travail</b>, projet de loi 80, <i>M. Mackenzie</i> .....</b>	<b>R-527</b>
Elizabeth Witmer, MPP .....	R-527
Waterloo, Wellington, Dufferin and Grey Building and Construction Trades Council .....	R-528
Jerry Wilson, president	
International Association of Bridge, Structural and Ornamental Ironworkers .....	R-533
James Phair, general vice-president	
James Cole, general treasurer	
International Brotherhood of Electrical Workers .....	R-537
Ken J. Woods, Canadian vice-president	
Wally Majesky .....	R-541

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Huget, Bob (Sarnia ND)
- \***Acting Chair / Président suppléant:** Klopp, Paul (Huron ND)
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)
- \*Conway, Sean G. (Renfrew North/-Nord L)
- Fawcett, Joan M. (Northumberland L)
- \*Jordan, Leo (Lanark-Renfrew PC)
- \*Murdock, Sharon (Sudbury ND)
- Offer, Steven (Mississauga North/-Nord L)
- Turnbull, David (York Mills PC)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
- \*Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer  
Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Turnbull

### **Also taking part / Autres participants et participantes:**

Murdoch, Bill (Grey-Owen Sound PC)

**Clerk / Greffière:** Manikel, Tannis

### **Staff / Personnel:**

Anderson, Anne, research officer, Legislative Research Service  
Richmond, Jerry, research officer, Legislative Research Service

C7201  
XC13  
-576



R-24

R-24

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 22 November 1993

# Journal des débats (Hansard)

Lundi 22 novembre 1993

## Standing committee on resources development

## Comité permanent du développement des ressources

Labour Relations Amendment Act, 1993

Loi de 1993 modifiant la Loi  
sur les relations de travail

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



# LEGISLATIVE ASSEMBLY OF ONTARIO

R-547

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 22 November 1993

The committee met at 1536 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

TERRY FRASER  
TERRY LEWIS  
BARRY FRASER

**The Acting Chair (Ms Sharon Murdock):** The time being 3:36 and all parties being present, I'd like to welcome Terry Fraser, and if you wouldn't mind introducing those who are with you.

**Mr Terry Fraser:** On my left is Barry Fraser, member of Local 105, IBEW. On my right is Terry Lewis, member of Local 105, IBEW. All of us are construction electricians.

**The Acting Chair:** We have half an hour for your presentation. It depends on how you want to do this, but if you wouldn't mind leaving some time at the end so that all of us can ask you some questions.

**Mr Terry Fraser:** I prefer to read my presentation because a lot of questions will be answered in the presentation, so it might save time.

**The Acting Chair:** Whatever you would like. The floor is yours.

**Mr Terry Fraser:** Thank you. My name is Terry Fraser. I am 60 years of age and I am a construction electrician. I have been a member of the International Brotherhood of Electrical Workers, Local Union 105, since 1953.

I thank the committee for this opportunity to address the issue of Bill 80 and to state my experience and reasons why I am fully in support of Bill 80.

I have held several elected offices of Local Union 105 of the IBEW. From 1966 to 1970 I was business manager-financial secretary. I was an elected delegate to five constitutional conventions of the IBEW from 1966 to 1986. I was the author of several resolutions to these constitutional conventions of the IBEW. A number of these resolutions called for concessions to the Canadian section of the IBEW to enable the Canadian section to properly deal with Canadian issues. In every instance, the Canadian leader of the IBEW of the day spoke vehemently against any concessions to the Canadian section. By the prestige of his office and the fact that the IBEW USA delegates outnumbered the Canadian delegates by a 10-to-1 ratio, the resolutions, one after another, were defeated.

I was an elected delegate to the IBEW constitutional convention in 1978, when the issue of withdrawing from the Canadian Labour Congress was raised. The Canadian IBEW leader of the day, Mr Ken Rose, stated that the IBEW was not quitting the CLC. What he did not

mention was that on his instructions, per capita tax was not being paid to the CLC, and in due time the IBEW would be expelled. By this deception of the Canadian IBEW leader of the day, Canadian delegates to the IBEW convention were denied the opportunity to debate the merits of the issue.

Shortly following this convention, the Canadian IBEW leader, K. Rose, engineered the setting up of the Canadian Federation of Labour, which would be a haven for US-based trade unions that did not want to conform to the minimum standards required for affiliation to the Canadian Labour Congress.

I'd like to read into the record these minimum standards as they appear in the CLC constitution: (1) election of Canadian officers by Canadians, (2) policies to do with national affairs to be determined by the elected Canadian officers and/or members, (3) Canadian elected representatives to have authority to speak for the union in Canada, and (4) international unions to take whatever action is necessary to ensure that the Canadian membership—and I emphasize Canadian membership—will not be prevented by constitutional requirements or policy decisions from participating in the social, cultural, economic and political life of the Canadian community.

Another sore point with the IBEW Canadian leader of the day and the CLC was that any local union of an affiliated organization could submit resolutions directly to the Canadian Labour Congress conventions without screening and approval by the head officers of the affiliated organizations, and delegates to the CLC conventions were being selected by the rank and file of the local unions. I raise the issue of the CLC affiliation because it was used as a reference by a member of the Ontario Legislature to condemn Bill 80.

Another reference was made on Bill 80, during second reading, that Bill 80 only refers to construction unions and therefore was discriminatory to construction unions. My knowledge of US-based industrial unions in Canada is that they all allow for Canadian leadership to be elected by Canadians, whereas only one US-based construction union in Canada allows for this, and the procedure followed to allow for this leaves much to be desired. USA-based industrial unions in Canada all allow for Canadian members to hold Canadian policy-setting conferences. Not one USA-based construction union, to my knowledge, allows this. Because of this, members of USA-based construction unions in Ontario and Canada are automatically committed to policies adopted by their USA counterparts.

In 1976, the Ontario government enacted compulsory province-wide bargaining for construction unions in the province. This legislation gave USA-based construction unions in Ontario virtually monopoly control over construction projects in Ontario and, as a result, virtually monopoly control over the working lives of Ontario construction workers. Business managers of construction

unions have de facto control over which members work and which members do not work on unionized construction projects in Ontario. Is it any wonder that ordinary members are reluctant or afraid to challenge the status quo or the administrative policies of the leaders of construction unions that they belong to?

A recent example of this intimidation was the proposal by the provincial council of the IBEW (CCO) to eliminate the right of members to vote on their major collective agreements. Every IBEW construction business manager in the province, with the exception of one, supported the proposal. A majority of members affected by the proposal abstained from voting, and the only local to vote against the proposal was the local union whose business manager opposed the proposal.

Ontario construction union leaders have de facto control over pension funds and health and welfare funds, which members pay into and which are very important to them. The rules for eligibility for benefits from these plans can be changed in the blink of an eye and are used as another lever by the leadership to coerce members into toeing the line of the leadership.

I was business manager of Local 105 when the Cliche commission report on construction unions in Quebec was tabled in the Quebec Legislature. The report exposed the racketeering, thuggery and extortion being practised by the USA-based construction local unions in Quebec, a situation that had been ongoing for decades and tolerated by the top USA and Canadian leadership. Not until action was taken by the Quebec Legislature did the democratic rights, dignity and working lives of ordinary unionized Quebec construction workers improve.

I was a delegate to the IBEW convention when the results of an ongoing grievance with several sections of the IBEW constitution by ordinary members of the IBEW was finally resolved by court decisions (*Boswell v IBEW*). The USA court found many provisions in the IBEW constitution to be discriminatory and illegal and ordered them removed from the IBEW constitution. A request from the convention floor to review thousands of cases where members had been punished and/or banished by these illegal sections of the IBEW constitution was denied by the leadership. I raise these issues because interfering in the affairs of a trade union was used by a member of the Ontario Legislature to condemn Bill 80.

In order to make me ineligible to stand for union elections in 1972, I was robbed of over 18 years of pension fund contributions, a pension fund which, by the way, has no Canadian trustees and is not registered in Canada but which every IBEW construction worker in Ontario and Canada must pay into in order to work.

In 1984 I was elected chairman of the executive board of Local 105. The bylaws of 105 provided for the chairman of the executive board to call special meetings of the board whenever he deemed it necessary. In 1985, for calling a special meeting of the board that the business manager of the day did not approve, I and three other members of the executive board were banished from any local union activities and from running for office from three to nine years by the Canadian IBEW leader of the day.

Bill 80 in its original form, which included the option to vote to disaffiliate, would have assisted greatly to ensure democracy in the construction unions in Ontario. Bill 80 in its present form will at least give cause to the construction union leadership to pause and reflect before they make certain dictatorial moves and will help benefit the democratic rights, dignity and working lives of ordinary Ontario construction workers.

This committee has heard and will hear presentations from some of the brass of construction unions in Ontario. Some will state that everything is hunky-dory in the construction unions in Ontario and it is only a few dissidents who are not happy with the status quo. I ask this committee not to have the wool pulled over their eyes by these presentations. It is only because of intimidation and coercion that more middle leaders and rank and file members are not being heard from.

A free, democratic, sovereign trade union movement is one of the major pillars of a free and democratic and prosperous society. Bill 80 will help to ensure construction unions survive in the benefit of Ontario construction workers.

**The Acting Chair:** Thank you. We have 18 minutes, approximately, so six minutes per caucus, starting with Mr Mahoney from the Liberals.

**Mr Steven W. Mahoney (Mississauga West):** Thanks very much. Actually, it's nice to hear from somebody from the other side for a change. We've certainly had a lot of people in here who are not in support of Bill 80, as you well know, and some of the references to comments made in the Legislature I assume were made by me; they look familiar.

Answer me a question, though. I was in St Catharines. The vote took place again. We've had I guess arguably somewhere between 70% and 85% of the people in your business against this bill, even against the amended bill with disaffiliation being taken out. There was some sense that the disaffiliation clause was one that, if taken out, would have placated a lot of concerns, but in fact it didn't.

I don't ask you to speak for the people who are against Bill 80; you've articulated your position. But why is it, with some kind of concrete example, that such a huge percentage of the people in the trade labour movement, in the construction unions, are just absolutely against this bill and even against the amended bill?

**Mr Terry Fraser:** Seated behind me are some members of IBEW in full support of the bill. Again I refer to my brief: the power. Does the business manager of 303 St Catharines oppose Bill 80 or support Bill 80? Do you know?

**Mr Mahoney:** No, I'm sorry. I don't.

**Mr Terry Fraser:** I'm sure he's opposed, and he controls who works and who doesn't work. What he wants to—you meet with some of these people privately, I'm sure you'll get a whole different story.

When they call the vote at a local union meeting, the business manager is sitting there and seeing who's supporting him and who isn't supporting him, and whether he does anything about it or doesn't, it's intimi-



dating. They'll sit there and jot names down and look at who's voting and which way. A member and his family are totally dependent on working, and that business manager is sending him to work. They're not likely to go against what he wants. They'll either abstain or side with them, as happened in that provincial proposal.

**Mr Terry Lewis:** Could I just add to that too? At the provincial building trades convention, on the motion that was put to them that they continue their opposition against Bill 80 in its present form and that was without any amendments, there was no debate on the fact that disaffiliation was taken out. The motion was passed. It was the original motion that was passed the year before.

Also, you should be aware that at least in the IBEW, which makes up at least a third of that convention, all of the delegates are appointed; there are no elected delegates to the provincial building trades convention. If you're a person who's not on side, you don't get appointed. So that gives you the reason why you don't have any real healthy debate on it, at least from that particular union.

**Mr Mahoney:** The article that you've provided of September 16, 1986, "Electricians fight 'union dictatorship,'" along with a number of the examples, Mr Fraser, that you read in your presentation, seem to be old battles, seem to be you and Mr Rose going head to head, Majesky and you siding up; like union politics.

One of the things that has disturbed me, aside from the specifics of the debate on Bill 80, is the issue of any government having the authority to amend a trade union constitution, one way or another. I mean, I don't care which side of the issue you're on; how can you tolerate it? You may have a friend in Bob Mackenzie, but you don't know who's going to replace him. You don't know who's going to replace Bob Rae. I have some sneaking suspicions, but I'll keep them to myself. But how can you tolerate it? You talk about democracy and freedom and everything else. Are you not just shifting the alleged opportunities for abuse from the internationals, as you put it, to the Legislature, to the government?

1550

**Mr Terry Fraser:** Let me answer in the same way you asked the question. This isn't an old battle; this battle is still going on. I in fact am applying for early retirement benefits. I have put that in jeopardy by being here. If they change the rules tomorrow, if I go to apply tomorrow and they've changed the rules—not because I was here, but for some other reason—I can do nothing about it. I am cut off. There is nowhere I can appeal. I'm out.

It's been an ongoing battle when a situation becomes a monopoly. The construction unions in this province are now a monopoly on the majority of major construction projects in this province. Bill 22, I believe it was, gave them this monopoly control. If I want to work, I have to be a member of the IBEW, or a plumber has to be a member of the association or a carpenter, all the way down the line.

**Mr Mahoney:** Surely you're not advocating changing that?

**Mr Terry Fraser:** Oh, no, I'm glad of that, but when

an organization or an institution becomes a monopoly and has monopoly power over people, such as Bell Telephone and other monopolies that exist in the corporate world, they are regulated to a point so that they cannot abuse their customers; in our case, the members.

**Mr Mahoney:** But you have collective agreements, haven't you? Sorry for interrupting.

**Mr Terry Fraser:** But we had nothing to say about them.

**Mr Mahoney:** But you have collective agreements that lay things out; so the hiring hall has the rules and everything's in place. I don't understand how you compare this to a monopoly.

**Mr Terry Fraser:** If you want to touch on the hiring halls, the hiring halls are the total property of the business manager. He will devise the rules he sees fit, and you have nothing to say, no vote on them and no appeal procedure; that is it. That's a constitutional requirement of our organization.

**Mr Leo Jordan (Lanark-Renfrew):** Thank you, sir, for your presentation. In line with the previous speaker, I tend to feel this is an internal dispute relative to your union, nothing to do with the Ontario Legislature. Why do you feel it's necessary to have legislation to correct this?

**Mr Lewis:** If I may, I'll go ahead with that. The IBEW, and that's the union we're familiar with, has a historic record of dealing with its members through internal union charges, dissidents. It'd be like in the Legislature, because you spoke against the NDP, you'd be put under trusteeship or removed.

**Mr Mahoney:** They'd love to do that.

**Mr Lewis:** And you won't allow it.

What we're looking for here—and we don't particularly like coming before the government to ask for some minimum standards, some minimum guidelines for some trade union democracy. That's what we're talking about here, trade union democracy. The international building trades unions, particularly the IBEW, have literally charged thousands and thousands of their members and barred them from any political activity. We got elected to go to an international convention, and we were charged and removed as elected officers. The whole point being here, even when you go through the procedure within the structure, they still can get trumped-up charges against you, and the charges are usually a conspiracy against those people they don't want there.

The persons who charge you act as the jury, the judge and the executioner. So it's up to the state to ensure that employers, trade unions, everybody treats their citizenry fairly, and that's all we're asking for in this legislation. Bill 80 simply gives a right to go to an impartial—and we're not going to the courts; we're going to the labour board. To go to a labour board to seek fairness; that's all it's about.

There is no fairness within the international union structure. First of all, you've got to go to the United States, and even if the appeal procedure was any good, the structure that they put in place takes, in most cases, a minimum of 10 years to get it to the international



convention. By that time, everybody and anybody has forgotten about it. It's a question of being able to go to quick redress.

The international building trades unions in this province brought in legislation in the Ontario Labour Relations Act on hiring halls. Because so many people were being discriminated against in the hiring halls, there at least is something in the Ontario Labour Relations Act now that if a worker feels he's been unfairly dealt with in the hiring hall, he can go to the labour relations board.

**Mr Terry Fraser:** If he can afford a lawyer.

**Mr Lewis:** If he can afford a lawyer and all those things. But at least there's somewhere else you can go to seek justice. It's all we're asking for here. We're not saying they can't charge you, they can't remove you, they can't put you under trusteeship.

The IBEW pension plan: 20 years before you have a vested right in the pension plan. That's how many years you have to pay into it. It is excluded by all laws. Federal laws don't cover the union pension plan; neither do provincial laws. We say this is unfair. I think under this bill we might get a trustee on a pension. I hope that answers some of your questions about why we need some help from the Legislature in giving us a position to get some fair redress.

**Mr Jordan:** How long have you been trying to get this help through the Legislature?

**Mr Terry Fraser:** Resolutions from our organization, I'd say, have been going on for decades, resolutions to the Legislature on different things, including internal union matters. I don't have the specifics here.

**Mr Jordan:** And without the minister responding to your requests.

**Mr Terry Fraser:** Bill 22, province-wide bargaining, was requested by the construction unions in Ontario, as legislation, and that was one example.

**Mr Jordan:** But you're convinced that you couldn't solve this problem without legislation.

**Mr Terry Fraser:** No, impossible. I've been to five conventions. It's all American issues, and that's the only place in Canada. There's nowhere to resolve anything internally in our organization.

**Mr Mike Cooper (Kitchener-Wilmot):** Thank you for your presentation. The lines seem to be marked pretty clearly here. The pros and cons on Bill 80 seem to be somewhat of a soft spot now with some of the revisions that are being proposed.

A lot of people who are against Bill 80 are coming in here and saying there's going to be chaos if we bring in Bill 80. Could you tell me exactly what you expect will happen the day after Bill 80 is passed?

**Mr Terry Fraser:** The members will feel more important in their own organization, like they have some protection against abuse. That's what I think will happen. There will be more democracy and more participation, like you don't just belong to the army. You're not in the army. You have a voice and a vote, and our leadership has to think before it acts irrationally, just like what happened in Quebec when they cleaned out the gangster-

ism and everything else. It was like a fresh beam of light went over all the construction workers in Quebec when they got rid of the gangsters, and it took the Quebec Legislature to do that. I'm not saying that situation exists.

**Mr Cooper:** Now they've got the CCU.

**Mr Terry Fraser:** I'm not even inferring it. But the issue of democracy does not exist in Ontario.

**Mr Barry Fraser:** I'd like to state that it was mentioned in the House a couple of weeks ago that construction workers now have complete mobility. I'd like to say without Bill 80, we have no mobility. Without the authorization of our business agent, we can't go out and look for work in other towns and other areas in the province. With Bill 80, hopefully we can get back some of what was taken away from us.

**Mr Cooper:** One of the other major issues that's been brought forward is government interference in constitutions. In your presentation, you said that the government forced the internationals to change their constitutions?

**Mr Terry Fraser:** Yes, I have a copy of the action that took place in a United States court. They removed several sections, after lengthy hearings and all this, of which I have a copy and I'd be glad to give you several sections under which members were charged and punished and which were discriminatory and illegal under civil rights and human rights and everything else. They were forced to remove them; they didn't remove them voluntarily.

**Mr Cooper:** But the constitutions were changed.

**Mr Terry Fraser:** In the United States by American law. We don't even know if those changes apply to us in Canada.

*Interjection.*

**Mr Terry Fraser:** They don't.

**Mr Cooper:** Is there anything in Bill 80 that changes the constitution?

**Mr Terry Fraser:** Yes, it dilutes the power of the president.

**Mr Cooper:** Or does it work beside the constitution?

**Mr Terry Fraser:** It works with it, but it dilutes the power of the top leadership that make moves without consultation, and what have you, with the memberships and the local union leadership, the middle leaders, and what have you.

1600

**Mr Cooper:** So you would say, after Bill 80 is passed that things will carry on as usual for most of the workers. They would still go to work the next day.

**Mr Terry Fraser:** Oh, yes, with a better relationship.

**Mr Mahoney:** Where are they working?

**The Acting Chair:** Did you want to say something?

**Mr Lewis:** Yes. The four major parts of this bill, as I understand it, are the charging of officers, which I would dearly like to be extended to members too, because really all that's being protected here are officers of unions. But going along with the trustees, work jurisdiction and trusteeship, the international union will still be able to put a local under trusteeship, it will still be able

to change work jurisdiction, charges will still go on. But at least now, if this legislation is passed, we can go to an impartial tribunal, hopefully, for a fair shot of getting a fair hearing.

Presently, that doesn't exist. Charges were filed against six officers in Hamilton, trumped-up charges, the whole works. We took it to the Supreme Court of Ontario and Judge Reid just played Pontius Pilate and said: "Oh, this is an internal union matter. Come back in 10 years if you still think it's interesting."

This is how ridiculous that structure is. The present Labour Relations Act has some vehicles. If you feel that you've been discriminated against on a job, you can go to the labour board. But let me tell you, you go to the local labour board and every local union in the province, if not in the country, has got your name. So when you're out there looking for work, you had better know that: you took your union to the labour relations board.

Most of the ones who are coming in here are full-time roadmen, most of them are under the control of their international union, and, if not, all of the supporters of Bill 80 you'll find very few rank and file.

**Mr Cooper:** One of the things that has been brought up by some of the other presenters on jurisdictional dispute, right now the way we're planning on proposing the legislation is the international comes to the labour relations board and proposes a jurisdiction. Do you think that would be better, to have it complaint-driven such as the trusteeship where they change jurisdiction and then the membership would complain?

**Mr Lewis:** On the question of work jurisdiction, 99% of the time, whenever work jurisdiction is changed, it's changed to put a local union and its officers in place. So any procedure that would give, again, a tribunal a chance to say, "Well, are you doing this simply because there is a problem within this union?"—"dissidents," as they call them; we'd like to call it opposition, but they use the term "dissidents"—it gives a vehicle for that local union and that international union to say: "Look, it has nothing to do with that. These are the causes and the reasons why we're doing it."

Most business managers, if they're honest, will tell you that if they don't play ball with the international they can have their work jurisdiction just removed by the stroke of a pen, and that is extremely unfair. So, yes, I think that in the case of the jurisdiction business it again gives a vehicle for them to deal fairly with it.

**Mr Barry Fraser:** Right now, the international has no recourse. It doesn't have to justify anything it does. It just does it. It's mandatory. There's nothing you can do about it. With Bill 80, hopefully, when it's passed, they will have to justify any of these arbitrary moves they make. That is our big hope, that they have to justify it, and hopefully we could stop them.

**The Acting Chair:** I want to thank you very much for coming here today. We appreciate the comments. It is the first presentation in support of Bill 80 that we've heard so it's doubly good to hear from the other side.

CANADIAN FEDERATION OF LABOUR

**The Acting Chair:** The next presenter group is

Canadian Federation of Labour, the president, Mr James McCambly. Mr McCambly, welcome. You have half an hour; I'm sure you heard me give the instructions to the previous presenter. How you use your time is up to you, but we would like the opportunity to ask some questions.

**Mr James A. McCambly:** Thank you, Madam Chairman, and I too would like to give you the opportunity for questions so I'll try to go through the written presentation as quickly as I can. I'd first like to thank all of the committee members for allowing me to be here and make representation on behalf of the Canadian Federation of Labour on the proposed amendments to the labour act, Bill 80.

I might just say—a bit of background on myself—that I have been president of the Canadian Federation of Labour since its inception. Before that, I was director of the building trades in Canada for 11 years, and prior to that, business manager and business representative of a building trades union in Alberta for a good number of other years, so I'm telling my age. At least I'd like to set the record that I've been around in the industry for quite a while.

The organization, the Canadian Federation of Labour, has some 10 unions that are involved in construction and about a quarter of a million members throughout Canada in various work sections, but a good lot of them in construction. It's on behalf of their members that I'm here to voice opposition to Bill 80.

It's our view that this legislation unfairly singles out the construction industry, subjecting it to undemocratic government intervention. In fact, this unprecedented and unwelcome legislation is opposed by union members far beyond the building and construction trades.

The long-term prospects for Ontario should Bill 80 pass are very disturbing. By reducing the stability of construction unions, the Ontario government would be destabilizing the entire construction sector. It's not a promising picture for the future. Major developers might avoid investing in this province, especially in long-term, large-scale construction projects, and Ontario's normally stable construction industry would have to rely on the labour board to provide stability while judging dissident requests as to their just cause.

Bill 80 represents an unprecedented, unjustified and completely unacceptable government incursion into the constitutional affairs of democratic unions. Giving any arm of government such power to hobble a union's ability to function on its constitution violates basic democratic principles. It is our view that this legislation is also in direct violation of an International Labour Organization convention by interfering in the legitimate operations of the union organization. You may know that a complaint has been filed with the ILO.

The ILO convention states, in part: "Workers' and employees' associations shall have the right to draw up their constitutions and rules, to elect their representatives and to formulate their programs....The public authorities shall refrain from any exercise which would restrict the right or impede the lawful exercise thereof." That's number 87, article 3, of the convention.



In this sense, the CF of L is acting not only on behalf of its affiliated unions, but also to alert the committee members to the dangerous implications of this legislation for the union movement as a whole. Although the government has chosen to target only one group of unions, it will open the door for another government to pass an amending clause making Bill 80 applicable to the operations of all unions.

The minister has said that he is responding to numerous complaints he has heard over the years and has conjured up images of all-powerful international unions dictating to and controlling weak Ontario locals. This image is not only insulting to construction unions, which pride themselves on their democratic operations, but it is wrong. In fact, Ontario construction locals are large, strong, healthy and do an exceptionally good job in representing their members. The minister has not provided evidence supporting claims that there is a problem in Ontario of unwarranted interference in construction union relations.

Trusteeship, the power to closely supervise or undertake temporary control of union locals, occurs in extremely rare cases and only in situations of fraudulent behaviour or inability to perform the duties required by the constitution. For an international union to assume trusteeship, it must first undertake constitutionally determined procedures of due process. Furthermore, there are already legally required procedures for the establishment of temporary management of a local.

Bill 80 completely fails to bring in more democracy. Instead, it gives the Ontario Labour Relations Board arbitrary power to make judgements and intervene or supersede a union constitution. It could provide government support to destroy a union.

It is ironic that construction unions have been singled out for democratic improvement, given that their locals are probably more autonomous than any other type of union in Canada. Their autonomy is seen in their financial relationship between the local and the parent. Construction locals control their own purse-strings, collecting dues and sending a per capita to head office, while dues of industrial unions flow directly from the member to the parent, who then distributes the funds to the locals. Industrial unions have a continuous control over locals that construction unions do not have and do not want to have.

1610

Ontario's construction industry also has one of the most envied systems of collective bargaining in Canada and, many say, in North America. Changes should only come from the industry, the labour and management representatives, not be contrived unilaterally by government against the will of industry. Construction unions are able to offer contractors effective industrial relations and the highest quality and most skilled labour force. Benefit packages provided to unionized construction workers are second to none in this or any other industry employing workers on a cyclical, temporary or short-term basis.

The nature of the intervention will destroy the ability of the unions to operate effectively. The constitutions of construction unions have been developed to create stable

and mature bargaining relations necessary to the particular and complex demands of the construction industry. Union constitutions formalize and describe the relationship and the functions of the union and ensure due process within the relationship of all the parties, namely, the locals and the members of the locals. They also protect the long-term health of the union.

Construction trade unions must be understood as more than a union protecting its members in the workplace. The construction labour force is a highly skilled, seasonal, mobile force, and it works within a highly competitive industry. These factors demand that the construction union be an effective, central, coordinating body providing specialized services and benefits on behalf of members, both locally and across the country. Construction unions also pool the resources of the members to provide advocacy services as well as dental, health, pension and other benefits that are second to none.

The union creates locals for the very purpose of addressing these issues at the local level. In Ontario, bargaining in the construction sector, even outside the ICI, is sometimes shared with the local but most often is addressed exclusively by the local unions. Forcing the creation of a body that would come under the minister's direction constitutes unnecessary and damaging interference in the workings of the union, ie, under subsection 138.2(4) to create a council.

The union has the right and is obliged to ensure that what happens at the local level is in the best interests of all members of the union as a whole. Do not forget that the strength of a unionized worker comes not only from the brothers and sisters of the local but also from the thousands of members of that union. This is what the union movement is about.

There is no need or justification for government intervention in an area that is logically and rightfully under the authority of the union. Two areas that Bill 80 affects, jurisdiction and trusteeship, would be extremely damaging to construction unions in Ontario's construction industry.

Section 138.3 would give the local union control over jurisdiction, including claiming new geographical, sectoral or work jurisdiction. The construction unions have worked hard over the years to develop a system for addressing jurisdictional issues. Jurisdictions are assigned according to the needs of the labour market. A local is an organization that must be economically viable in order to pay for its administrative costs such as staff and rent. If the market in a certain jurisdiction, for example, cannot support a local, then the local may have its jurisdiction changed or be merged with another.

This is a difficult process for all involved. It is easy to expand the authority of or create an organization, but it is difficult, however, to reduce the authority of or merge organizations. Ultimately, only the unions are the appropriate and capable authority to assign jurisdictions.

I want to make some particular mention with regard to large projects, an area that I have had some personal experience in. The unions would be unable to guarantee labour peace on very large projects; thereby, the prospects of large-scale project investments in Ontario would



be jeopardized. Many are unaware of the critical role of construction unions in promoting labour peace on major construction sites. In fact, most people do not know that construction unions often offer to provide no strike, no lockout agreements for very large projects.

Examples across Canada where agreements were established to meet this objective include projects like the St Lawrence Seaway, Churchill Falls hydro in Labrador, British Columbia Hydro projects, Manitoba Hydro projects, Syncrude heavy oil development, Regina heavy oil upgrader, Pine Point mining development in the Northwest Territories, Scott Paper in Nova Scotia, Nova Scotia Power, and currently under way are the Hibernia offshore oil development and the fixed link to PEI.

These projects might very well not have been undertaken if the parent construction union was not able to assure stability for the duration of the project. This stability would not have been possible in any province subject to provisions similar to those contained in Bill 80. As soon as a major project begins, hundreds of millions of dollars are committed for investment. If the project experiences work stoppages, especially towards the completion of the project, the cost of downtime can easily be in the millions of dollars per day.

Project agreements are normally negotiated between representatives of the client and/or prime contractor and the parent unions and their local unions. Bill 80 would make overall planning impossible. Contractors of large construction projects would have no one in the industry to turn to for assurance of stability. It is through the joint strength and cooperation of the parents that good agreements are drawn up that guarantee stability to workers as well as the contractors.

There would only be two other options to attempt to create stability. One might be the government choosing to manage the construction industry by ad hoc legislation, or the other could be leaving it to the discretion of local unions that have the jurisdiction. We have some examples where the latter practice was employed. In these instances, work stoppage cost overruns were unbelievably high, and these are very bad examples of how to deal with very major projects.

With respect to the government managing industry, you'll find unanimous agreement in this industry, as well as in many others, that the private sector—business and labour—should negotiate its own deals and not look to government to manage its affairs.

Work in this province undertaken by Ontario Hydro, specifically the long-term major construction work undertaken to build a series of Candu nuclear facilities, was assured an on-time completion through long-term agreements. Once again, the parent unions had a very significant role in negotiating this pact in the early 1970s, and although contract provisions allowed conditions to be renegotiated, the pact was intended to last indefinitely or until terminated by either party. While it has been continuously renegotiated, there has never been a single strike or lockout in its entire 20-year history.

I'll now turn to the provision that requires a "just cause" standard for the establishment of temporary management of a local trusteeship, which would be

decided by the OLRB.

We oppose such a process. Having the OLRB determine "just cause" interferes with and supersedes the constitutions of unions. The authority to establish temporary trusteeship is essential to ensuring the union's credibility and effectiveness. In any instance of trusteeship, there are hearings, appeal procedures and other features of due process within the union constitution mirroring what exists in modern and accepted legal doctrine. The role of the board is to ensure that due process actually is carried out. Therefore, if unjustly imposed, a trusteeship can be challenged under the union's constitution, as well as the existing laws of Ontario, even suggesting that "just cause" to justify government intervention is wrong.

While "just cause" is important and is integral to due process, it is not easily defined and is virtually always arguable from two points of view. This would mean that the labour board would be asked to intervene in virtually every proceeding in spite of existing constitutional procedure for due process. It is simply not in the interests of a union to unnecessarily place a local union under temporary trusteeship.

Although there have been a few trusteeships, most have been at the invitation of local executives when a situation needed to be changed. However, the vast majority of locals manage their business properly and autonomously uphold the terms of their charter.

#### 1620

The final provision I would like to address is the amendments to Bill 80 addressing pension plans, which will very likely upset a careful balance that has been achieved through many years of negotiations. We suggest that if the government can actually demonstrate any problem with some of the best plans in Canada, it should sit down with the relevant organizations and work out solutions.

In conclusion, the Canadian Federation of Labour opposes Bill 80 because of its unwarranted damaging of the construction unions and the construction sector in Ontario. We strongly recommend that the proposed legislation be withdrawn in its entirety.

The third-party government interference into union constitutions of the construction sector which the bill is proposing is unjustified and unheard-of in the history of trade unionism in Canada. If this bill passes, it opens the door for any future anti-labour government to expand its influence not only into industrial and other types of unions, but also to increase government control of unions in every aspect of their roles and duties to their members. Bill 80, if implemented, has the potential to turn the clock back 100 years for the trade union movement in Canada.

If the government wishes to address any issues, real or imagined, the Canadian Federation of Labour and all of its affiliated construction unions are willing to sit down and discuss the matter with the government of Ontario. Once again, I thank you for the opportunity of making this submission.

**The Acting Chair:** Thank you very much. There's

just a little over four minutes for each caucus, beginning with Mr Jordan.

**Mr Jordan:** Thank you for your presentation, sir. It was very informative and it gives rise to the question, why is this continually being referred to as Bob White's payback?

**Mr McCambly:** I don't know if there's any justification in such a comment being made. I must say that it is strange that the unions that are affected are construction unions and, by far, predominantly within the Canadian Federation of Labour, but that does not justify such a comment. We'd like to just deal with the issue on its face value and not try to read anything into it that isn't obvious.

**Mr Randy R. Hope (Chatham-Kent):** Correct me if I'm wrong. You used the word "dissidents"?

**Mr McCambly:** Yes.

**Mr Hope:** Why did you use the word "dissidents"?

**Mr McCambly:** Under the circumstance where I used it, there are dissidents who raise objections that may—particularly by the previous people who were on the docket it was taken as an exception. There could be other terms that might be used, but they are the people who oppose the process.

**Mr Hope:** I guess those individuals who are opposed to the administration of a local union would be categorized as dissidents, and I take exception to the word "dissidents" being used simply if some local union leadership wish to express the views of their membership.

I've come from a union that has left its international parent and has formed its own national union, and I understand some of the stuff that is being said here quite clearly. I was involved, out in Newfoundland, with the issue that took place out there between the United Food and Commercial Workers International Union and the CAW. I was also involved with the CAW-UAW separation that took place.

One of the concerns I do understand, which was explained in the earlier presentation, is that you're saying there's an appeal mechanism. I was watching your process. I firmly believe, and my father and I come from the labour movement, that more democratic rights of a local affiliate would be the powers and the power-building of a trade union versus the central administration.

What you're saying here is that there are other unions against it. I guess I should ask you what other unions are opposed to this legislation and how you would see this allowing some other government—and I take exception to the word you used, "anti-labour"—to amend this bill to allow further deterioration of the labour movement.

I'm having a hard time understanding where you're coming from with your arguments, because your pension is centrally administered, and if you don't have the availability of local unions to make decisions based on their local membership, you lose the opportunity that's there, because you're central.

**The Acting Chair:** You have about two minutes, Mr McCambly, to answer all of that.

**Mr McCambly:** There are several points you've

made. First of all, with regard to the word "dissidents," people in opposition is really what I was making reference to.

When you talk about pensions, most of the pension plans of unions in construction are jointly trustee at a local level, there are some that are jointly trustee at a provincial level, and there are a very few that are national. There has been reference to some internal plans, which are quite insignificant by comparison, within a union itself, but most of the plans are jointly trustee within the province now. If there are problems with other ones, we say deal with them as the case comes up.

I know which other unions are opposing, but I'd let them speak for themselves. I think some of them are looking to get on the docket now.

But let me just say one thing. Present company excepted, believe me, there are some governments that are not favourable to unions. Even if this were perfect legislation at this time, to condone interference and intervention into a constitution of a union by any government is not justified.

**Mr Mahoney:** I guess Mr Kormos and Mr Morrow and Mr Swart would be dissidents. I'm just trying to understand the difference. I'm opposition, they're dissidents, because they're on the inside of that particular group. I understand that difference, and we can argue over those words if we want.

I'm concerned about any potential problem with regard to the ability to move around within Canada. If there are different rules in the construction industry in Ontario, you make the point, as do many others, that certain investments may not be made by national or international investors, be they megaprojects or simply real estate-type projects. They may go away for fear of problems on the job site.

What does it do to the construction worker in Kenora, who probably works in Manitoba a lot? Do you see any problems? I'm not talking about disaffiliation so much as I am about a different playing field, so to speak.

**Mr McCambly:** One of the real advantages of the unions that are predominantly in construction, certainly not with any exclusive or unilateral control of construction—I kind of wish we had it, but we don't—is that the international unions concentrate a great deal on making it possible for people to move within a province and between provinces to take up work opportunities when the local workforce is exhausted or is employed. If different rules were established or jurisdictions were peeled off or hived off, then it would make it very difficult, I think, for those people to move from jurisdiction to jurisdiction.

**Mr Mahoney:** Just follow me a little bit on that. If you have a construction worker in Ontario with a certain skill and that person winds up going to another province and there's a dispute over the jurisdiction—presumably, they were called in because either the skill was not available in the province they're talking about or they needed additional workers. Never mind across the border; let's talk about interprovincial construction. Who's going to settle the dispute in Manitoba, British Columbia,



Saskatchewan or the province of Quebec, if we ever get fairness back into that game? Who's going to settle it with Bill 80 in place? Is there going to be some right? Are they going to go on the basis they've always operated, where the international comes in and goes by the rules that have been in place since 1920, or is somehow a labour relations board in each of these provinces going to have to get involved in this dispute?

**Mr McCambly:** I can't imagine how a separate dispute-settling procedure in one province would fit into what is now being established throughout Canada. There is a national appeal mechanism that is being created now in Ottawa for people from all parts of the country to appeal issues to, but that is from local umpires that resolve jurisdictional disputes. If there is an ability of a board to set up its own rules, I have no idea how that could ever fit into a national system. It is really quite complex and difficult to judge these jurisdictions.

1630

**Mr Mahoney:** I'm out of time, I think, but the pension issue we've heard as a concern: lack of representation on a pension board for Canadian members, a requirement that they must pay into a fund they have no say in, those types of things. Can you give us your perspective? If indeed there are problems—and by the way, there may be some areas where there are problems. I've said from day one that if there are problems in the construction labour movement, let's get everybody together and sit down and figure out how we can resolve those problems, including the internationals and people such as yourself.

Do you share the concerns that have been expressed about the pensions? If so, do you see a way to solve that problem?

**Mr McCambly:** I assure you that if there are problems, we're prepared to sit down and talk about them and find a solution. I can tell you that the construction unions in Ontario and in Canada should be justifiably proud to have the most control for the actual members who have the pension, more than any other group in the country. It's been leadership that other unions, other organizations, would love to have followed years ago. The jointly trusted control by business and the union is giving a say to workers, there are no unsatisfied claims, it's fully funded. These plans are as good as exist anywhere in the country, and if there are problems we'd love to address them, because we don't want them to be subject to criticism.

**The Acting Chair:** I want to thank you very much, Mr McCambly—

**Mr Hope:** Madam Chair, the term "local umpire" was used, and I wonder if he could give me a definition. He mentioned "local umpire" in his comments and I want to know what he meant.

**Mr McCambly:** There are umpires that have been established in some provincial jurisdictions in British Columbia, Newfoundland and some other provinces who basically make determinations under the union system of determining jurisdiction. They would have an opportunity to appeal nationally in Canada.

**The Acting Chair:** I want to thank you—

**Mr Mahoney:** Don't we all get one more question?

**The Acting Chair:** No.

**Mr Hope:** I was just clarifying.

**The Acting Chair:** I would like to thank you very much, Mr McCambly, for taking the time to come down and speak to us.

The 4:30 presenter, Mr Doug Ryan, the business manager for the International Brotherhood of Electrical Workers, Local 773, and the 5 o'clock presenter, Ralph Tersigni, executive secretary-treasurer of the IBEW Construction Council of Ontario, have asked to make a joint presentation with 45 minutes rather than using the full hour. We have very kindly agreed, particularly as it's opposition day and there will be a vote before 6 o'clock.

**Mr Hope:** Madam Chair, may I ask legislative research to pull up for us the information on the local umpires which was used in the presentation today? He says it's in a jurisdiction where local umpires are being used, and I'm wondering if we could have some information on that.

**The Acting Chair:** He is now taking the note.

IBEW CONSTRUCTION COUNCIL OF ONTARIO  
INTERNATIONAL BROTHERHOOD OF ELECTRICAL  
WORKERS, LOCAL 773

**The Acting Chair:** Could you identify yourselves for the record, please. There are 45 minutes and you can use the time however you wish; however, we would like an opportunity to ask questions.

**Mr Ralph Tersigni:** For the record, Madam Chair, my name is Ralph Tersigni, executive secretary-treasurer of the IBEW Construction Council of Ontario, which is the employee bargaining agency for the province. With me is Doug Ryan, who is the president of our council and also the business manager of Local 773 in Windsor.

This brief to the standing committee on resources development re Bill 80 is presented from the Construction Council of Ontario in conjunction with Local 773, presented by myself and Doug.

I should point out prior to beginning that you'll see in one of our exhibits, namely, the Principal Agreement, that although the employee bargaining agency represents Local 353, it is the only one that's listed there that would be in favour of Bill 80. The rest of the locals are opposed to it, and we carry the position of the rest of the locals listed, with the exception of Local 353.

For the purpose of this submission, we wish to place in evidence an examination of the constitution of the International Brotherhood of Electrical Workers as exhibit 1, which is this one here.

The Principal Agreement, which is an all-sector agreement, we'll call exhibit 2.

Exhibit 3 is a brief excerpt from the Construction Craft Jurisdiction Agreements, which is that thick. I realize that time is short. However, there is the preface, which tells you what this is about. There's also a table of contents. If we could have made the complete book available, we would have, but I'm sure that you can see there's quite a bit. We have taken an example of what that construc-



tion craft agreement's purpose is, its history and that, that you can read in the preface at your perusal.

With a constitution that's over 100 years in its making, a principal agreement that spans eight decades and jurisdiction agreements between trades that commenced in 1927, it would be impossible, in our opinion, to explore and test the consequences of the current bill in its entirety in the 15 minutes allotted—thank you for the extra 15—much like the opposition parties, I read in Hansard, had 10-minute notice at second reading.

Since time does not permit, we therefore, for the purposes of this paper, wish to, with respect to our exhibits, scrutinize by trial—and I say that sincerely; I put them all on trial in front of you; we've nothing to hide—our constitution, our agreement and this international agreement, for your perusal. You'll also find that exhibits 1 and 2 have been highlighted in yellow. That can direct you right to some of the references we were making earlier.

Again, since time does not permit, we do, however with those exhibits, want to put Bill 80 on trial with an inspection of the following sections of the proposed bill.

The definition of "jurisdiction," when you read it in 138.3 and 138.5, which is all we want to deal with today, has to be read in context with the definition contained in the bill that includes geographic, sectoral and jurisdiction.

We also took the liberty to go to Webster's dictionary for a definition of the word "autonomy," which is found in there to be "self-governing, independent."

Again, on page 2, we've quoted sections 138.3 and 138.5.

Over to page 3: Sections 138.3 and 138.5 would, once enacted, in our opinion:

(1) interfere with our existing autonomous rights to participate fully and freely in the union we love and have sworn allegiance to;

(2) invalidate sections of our constitution;

(3) obstruct our rights to freely bargain our Principal Agreement; and

(4) void existing and future—which I called exhibit 3—peace agreements contained in the Construction Craft Jurisdiction Agreements, all of which are set forth in the following examples.

I'd like to go through this, and when I come back I might cross-reference three. The whole purpose of this is to point out to the committee and this Legislature that once a government interferes with a constitution of a union, that constitution finds its way, and has, into the collective agreement—which we're about to show you—in more than one case.

It also finds its way into agreements outside the IBEW, which is the international building trade agreements.

We want to point out some of these areas to you with respect to what we're saying.

1640

As far as the constitution goes with respect to 138.3 and 138.5, the constitution, article I, sections 1, 2 and 3 are found on page 7. I'll just read through them quickly: the international president, the international vice-presi-

dent, the international executive council, local union charters, rules for local unions, the freedom of association, jurisdiction, invalidation by a tribunal of competent jurisdiction.

For a second, I'd like to refer the committee to that. If you take out exhibit 1 and turn to page 97 of the constitution, exhibit 1, and you go down to section 3, it should be highlighted there. It says:

"If any section of this constitution or part thereof should be held inoperative or invalid by a tribunal of competent jurisdiction"—I'll stop right there. This body sitting here today is such a tribunal of competent jurisdiction—"the remainder of this constitution, or the application of said section or part thereof to persons and circumstances, other than those to which it has been held invalid, shall not be affected thereby."

It goes on to say what they'll do at the next international convention.

What we're saying, if Bill 80 is enacted the way it is now, then all these sections that are subject to that scrutiny, and if it went to the labour board by whatever mechanism and was found invalid, we in Ontario would not be able to freely participate in the convention, an international convention, to decide what should or should not be contained in this document.

One example, the Principal Agreement, which is exhibit 2: I've happened to point out the scope clause, geographic jurisdiction based on what's contained in the bill, work jurisdiction section 5, sectoral jurisdiction or linework, work jurisdiction between IBEW classification, letters of understanding page 20.

For a second, let's turn to that. If you take out our collective agreement, turn to page 20. If you follow 138.5 it talks about a parent union or council of trade unions not interfering in the autonomy of a local union.

That letter of understanding on page 21—I'm sorry, it should be highlighted; has everybody got it highlighted in exhibit 2?—is a result of collective bargaining by our council, accepted by our members. What it does is it defines or sets out what the jurisdiction's going to be internally between linemen and electricians. You'll see that it was dated the 18th day of February 1993.

If you take section 138.5 and one of our local unions says, "Well, wait a second, down in Windsor on May 1, that work was being done by linemen or electricians. I want to exercise my rights," with Bill 80, wherever it goes to, the board or wherever, says, "Well, by the right, Mr Ryan's right." The autonomy in his local prior to that, the work jurisdiction which Bill 80 sets forth, they're talking about work, sector-wise, says "You've got to give that back."

What I'm trying to point out here is that this bill, when it's unmasked, or when you look at it and scrutinize it and put it to the test, prevents us from negotiating our principal agreement with our contractors.

While we're on that, if you just go to right at the beginning of the book, scope of the agreement, on page 1, union jurisdiction, you've got that highlighted, that our employers agree "to recognize the inside and outside jurisdictions as outlined" in our constitution—there's a

direct reference to our constitution—"in the performance of all electrical work."

In other words, they've got nothing to say about how we internally, our employers, say what belongs to a lineman and what belongs to an electrician, right in the collective agreement.

Again, as I say, when you look at the authority of the constitution and the authority that's vested in the international president, who gets that authority by convention, by elected people from local unions to participate in those conventions and adopt the constitution by a majority vote and resolutions, that's how you get from the constitution into the collective agreement.

On page 5, we talk about the Construction Craft Jurisdiction Agreements. That's exhibit 3. That's the book that's published by the Bureau of National Affairs in Washington. It contains jurisdiction agreements outside of the IBEW with the other construction trades. The reason for it is that we have to build buildings and we've all got to get along when you get 14 unions on one site.

If you go right to the back, the table of contents, right through that, I brought for you an agreement on jurisdiction between ourselves and the plumbers that was signed by Marty Ward and Charles H. Pillard, Ward being the president for the UA in Washington and Pillard the IBEW president.

If you just disregard the one on assembly of transformers and go with the one on instrumentation, which is found on 157 and over on 158, you'll see the one on stress-relieving. We were involved in that case. I personally had the UA in front of the labour board here in Ontario. I guess they saw it wasn't going too good, so they got hold of their international president, who got hold of our international president, who put two committees together, and that's the result of what happened. That, by the way, is applied to every jurisdiction in North America, coast to coast, north to south. That's how we work that out.

Where Pillard got that authority from is back in the constitution. I'm going to take you back into exhibit 1, the duties of the international president. It's found on page 25, right at the top, section 12. The convention gives our international president authority to make these agreements that we're talking about in here. It says, "To enter into, or authorize an IVP, representative, or assistant to enter into, agreements with any national or international labour organization or association of employers, or with any company, corporation or firm doing an interstate or interprovincial business in electrical work, to cover the entire jurisdiction of the IBEW." That's where he gets the authority.

Now, had the UA at the time had Bill 80 and this happened, or if it was me, I'd have run and sought refuge under it and said: "Hey, you're interfering with my bloody autonomy. My members were working on that till you guys cut this deal." The government tariff says: "You're damn right. The IBEW's right. You can't change it, Mr Pillard."

So what happens? His hands are tied. It's changed everywhere in the IBEW: all across Canada, all across the

United States, with the exception of Ontario. Then you go back to what I said before, right at the back, about the invalidation thing, and then read on. The invalidation says at the next convention, they have to look at that. They say, "Are we going to accept this or not accept it?"

As you will see a little bit later on, what we really think Bill 80 means—our suspicions anyway—is it will, in our opinion, create serious problems, far beyond what I think might even be the honest attempt of Bill 80. Doug and I scrutinized a lot of things in here, and that's why we just stayed with these two sections, because the further you get into it, the more consequences of Bill 80 we found. So we're just going to stick to these two.

So on page 6 you will see we say: "By an examination of the authority of our constitution given to it by elected rank-and-file members at convention, one can trace the integral connections between the constitution" to the principal agreement to what I call the peace agreements between trades. It involves jurisdiction, whether it's work, geographic, sectoral, internal or external. You can follow the authority given by convention to the elected officers; as I just pointed out, that given to Charlie Pillard at the time to make this agreement with the united association. If you examine this, and I hope you do, you can scrutinize how this authority translated into the bargaining agreement and in the peace agreements that are accepted in every jurisdiction in North America, internally and externally.

#### 1650

Bill 80, on its face, can invalidate any or all of the foregoing since the law supersedes a constitution, a principal agreement or any other agreement, or as the bill says, right in its own context or otherwise.

Besides all of the foregoing, if Bill 80 is good, I say put it to the test. The question that's foremost is one of the Charter of Rights. If it's good for one union, why isn't it good for all unions? A constitution, whether it's a union, a political party, a religion, a service club, should have all laws applied to it. You've got Highway 401 that says the speed limit's 100 kilometres, not just for me but for everybody. If Bill 80 is good, and maybe it is, would it stand the test of every union in this country?

I want to point something out now. The IBEW's the only construction union in this province that crosses every sector. We have locals with industrial agreements. Brother Ryan here has an agreement with the Windsor school board. It's not affected by this legislation because it's not construction, but they're members of his union.

I ask you, if you have time, to scrutinize what we've put out, put it to the test yourself. Maybe you'll come up and say, "This is not really going to affect anyone." We think it will. If it stood that test, a constitution is a constitution, no matter—like I say, people get together, they have a democratic vote.

We had an example up in our party—I belong to the Liberals, as you might suspect—where in the last federal election, Frank Bean, who was a former member of Parliament, challenged the local association on how they went about electing their delegate. What Frank had



forgotten or didn't take the time to find out was that the local Liberals and the authority had changed the way they'd done it by a vote of the local association. He got mad and he ran as an independent.

If there was something done wrong there and that association had done something wrong, then they should be scrutinized by these kinds of things, because the constitution is something that we get by living in a democratic party. It gives us the right to assemble freely, to associate freely and make free decisions.

It would appear to me that in this case the answer is no. It appears that the action has been arbitrary. When you put Bill 80 on trial by examination, scrutiny and cross-reference, you uncover the true purpose of Bill 80 in our minds.

Mr Mackenzie said to the House on second reading, October 4, and this is a quote, "As promised, we have consulted widely on these and other issues arising from first reading of the bill." This is simply not true. No employee bargaining agency has been contacted to our knowledge or had an input in this bill until today. Is that not correct?

**Mr Doug Ryan:** We haven't been contacted, no.

**Mr Tersiigni:** He went on to say when he concluded, "Our ultimate goal is to enact a law that brings a sense of balance and fairness to the relationship between local unions, their members and their international parents."

Mr Mackenzie's only statement to myself, in front of international vice-president Woods, when we asked him a question a year before this at Evans's retirement party, was, and I'll quote it because I wrote it in my diary, "You fellows know this is not my doing. If it was, I would have included it in Bill 40. It's coming from up above. It's not my agenda." So our question is, whose damned agenda is it?

In our opinion, Mr Mahoney and Mrs Witmer had it correct. They said it's payback time for the CLC, written right in Hansard. I don't know whether that's true or not, but that was their opinion. It's the first time that a government in Ontario will enact legislation that's going to interfere with the internal politics of a union, just construction unions, with our principal agreements and our peace agreements.

Bill 80, when you uncover it and unmask it, places language into the Ontario Labour Relations Act that facilitates or eventually mandates a divorce by construction local unions from the international parents. And I'll tell you something. If we didn't want to belong to the IBEW, I don't need Bob Rae to help me out of it. If we didn't like the IBEW, we would get out ourselves, because the act now gives us that right. But there seems to be a perception that something more is needed. I say if it's needed, then it should be good for all unions, and if it's needed, it should be good for all constitutions. I ask you to think about that point.

When it's applied arbitrarily, as it appears to be, to just the construction unions, I say it's a violation of our rights and freedom of assembly and association. It is arbitrary. It's a denial of just cause and due process, immoral, uncivilized and barbaric. There's no place in the Ontario

Labour Relations Act and it's totally unacceptable to us in whole or in part.

We were even asked if we'd take a watered-down version by some of our friends who were opposed to Bill 80. Would you take a complaints mechanism-driven sort of thing? Our answer's no. Something is either right or it's wrong, and no part of this, in our opinion, is right. If it is, it should apply equally to every citizen, every union, every constitution.

We expect to be back in a short period of time asking the next government to revoke this bill in its entirety. Thank you for your attention.

**The Acting Chair:** There are 24 minutes in balance, which leaves eight minutes for each caucus, beginning with the New Democrats in this round.

**Mr Cooper:** First of all, I think there's a misunderstanding here. Section 138.3, the alteration of local jurisdiction, I believe you were talking about peace agreements, and that's intertrade, like between carpenters and electricians. This bill doesn't address that; it's intratrade. So it's two locals of the same parent. That's where the jurisdiction comes in. Other jurisdictional matters are already handled. Is that what you were referring to in your presentation?

**Mr Tersiigni:** It could have been, Mr Cooper, but I think I can explain it. You may be right in 138. The definition of jurisdiction that's included in the bill includes geographic, sectoral and work jurisdiction, and 138.3 uses the words "jurisdiction...constitution or otherwise." What's "or otherwise"? "Or otherwise" must be something other than a constitution where you find those avenues of resolving these problems. Well, they're contained here in the principal agreement and they're contained in the BNA book.

If you go on to 138.5, you have the autonomy of a local trade union affected by a council. As I explained in the letter we worked out and negotiated between the electricians and the linemen, that's internal. If you go back to a problem between ourselves and the carpenters, the international union has the authority to make an agreement to resolve a dispute between ourselves and the carpenters by the constitution.

If you go the collective agreement and read 509, you'll say the fact that we can't have a work stoppage is to the problem. Submit it to Washington or take it to the Ontario Labour Relations Board. What we're saying is, if we don't like the deal, our autonomy in 138.5 has been interfered with directly or indirectly by the international president, who's given the authority by the constitution, which shows up in the BNA book.

I hope you're right. I hope that sort of thing can happen under here, but when you read the language and read the definition in context with and take a look at the definition of autonomy, I think there's a good argument for that. I might sometimes want to use that against my international.

1700

**Mr Ryan:** What we want to point out here is that in a jurisdiction like Ontario, where you have in the IBEW 13 local unions, there could be a problem in one particu-



lar local union that takes the international to come in to try to resolve in.

You may get into a type of situation that Ralph alluded to where it involves the situation between the UA and the IBEW in one particular local union's area but could cross all boundaries to other local unions in the province and in fact in Canada and the United States, and the two internationals attempt to resolve it once and for all so that they can come to a conclusion. It could be that one local union only in the province of Ontario feels that this action being taken by the two parent unions has impact on its autonomy as it sees it with regard to its work jurisdiction.

But as we understand the bill, in order to alter that, before the international could do that, it would have to go and make an application for an alteration. This can delay the process and cause a lot of complications for the other 12 local unions in the province and other unions in Canada and the United States as well because of one particular local union and its concerns.

**Mr Cooper:** I think the part I'm trying to point out here is that Bill 80 would only cover a jurisdictional dispute between two locals of one parent, so two IBEW locals.

**Mr Tersigni:** Excuse me, sir.

**Mr Ryan:** We don't see it that way.

**Mr Tersigni:** Look at subsection 138.3(1).

**Mr Cooper:** All right. Subsection 138.3(1).

**Mr Tersigni:** "Whether established under a constitution or otherwise." I hope you're right, but what does "or otherwise" mean? What could that mean? "Otherwise" would mean some other kind of mechanism, and we've researched this book, sir.

If you're right I hope maybe you can clarify that. If that can be clarified, then part of the fear has been relieved. "Or otherwise" would have to be something other than the constitution. These are the things that I know about. There's this and there's this. That jurisdiction, you see, was part of the IBEW's when we took it to court back in 1978 and we were only after the stress-relieving end of it because it was 600 votes electrical.

If you look at the exhibit, I guess what happened down in Washington was that Ward said to Pillard, "If you want something, you've got to give me something." So we got ourselves into the stress-relieving and at the same damn time they gave away the instrumentation. They made a deal, but the deal applies to every jurisdiction in North America. If that's not the case and that can happen, then that's really good. I'm not so sure; I'm not a lawyer and I know they're going to make a lot of money when this is enacted.

**The Acting Chair:** Thank you very much. You have eight minutes, Mr Miclash.

**Mr Frank Miclash (Kenora):** I must say, as you know, that Mr Mahoney had something else to go on to so I'm sort of filling in for him. I just have a few questions here that he's asked me to pose as well.

If you want to amend your current constitution, how would you go about amending that?

**Mr Tersigni:** You'll find that in the constitution, but basically what happens is that there's a convention every five years, the constitution spells out how the local union delegates have to be elected and then the local union or a combination of local unions would put resolutions into the international convention for adoption.

If you wanted to restrict the authority of the international president, then you'd go to the one I had pointed out, which is on page 12. I think it's highlighted. We would put in a resolution that says he can no longer make these agreements. If the whole body, and there have been some pretty serious challenges to different authorities on parts of the constitution—so it would be like your convention; when you adopt a policy for your political party you go, you present a resolution—we go by majority rules, and if they accept it, then the constitution's amended at the convention.

**Mr Miclash:** The other question I have is, you were talking about jurisdictional disputes over geography and work jurisdiction. How are these disputes resolved?

**Mr Tersigni:** There are many ways that they're resolved. The geographic jurisdiction: Really, I think the last problem we had was Local 594 from Pembroke. The international thought they should really no longer continue to exist because they were down to something like 40 members and really couldn't pay their own way. I guess they were in financial difficulty. They went in, looked at it and turned that jurisdiction over to Ottawa, Local 586, of which they were a part some years ago.

I believe that was challenged in the Ontario Labour Relations Act, and the government found after the hearing that the international, in the constitution, had the authority to make that amalgamation.

One thing I know of that has happened was where our international president two or three years ago said, "You people are going to organize"—the construction industry—"you're going to open up the doors to these private clubs and take people in." On the east coast where people refused to do that and open up their doors and organize electrical workers in the IBEW, I think he amalgamated three or four locals in one district into one. We've been operating that way as long as this has been around.

**Mr Miclash:** According to your brief, you're certainly not in favour of the bill. You've indicated that you would have it revoked in its entirety. From your perspective, can you come up with any idea as to why the present government is actually putting Bill 80 forth?

**Mr Tersigni:** Well, I think I pointed that out in the brief. I would say right now, put Bill 80 to the test. A constitution's a constitution. If it's good for us, it should be good for everyone, including yourselves. You people have constitutions and conventions; you adopt policy. Are we the only bad guys? Can none of you guys ever make a mistake?

The minister himself should know what the hell I'm talking about. It was his international that had one of the longest trusteeships in the history of this province. Why is that union not subject to the same scrutiny we are? I ask you, put it to the test. Do you think this bill would get through the Ontario Federation of Labour?

**Mr Miclash:** Doubtful.

**Mr Tersigni:** I don't know. If it does, if it's good for one, it should be good for everybody.

Our biggest problem is, we feel we've been acted upon arbitrarily, and you've got to admit, it is arbitrary. We're the only ones singled out in this bill. There are a lot of other international unions. Maybe they're all perfect. Maybe they're all holy. I don't think so. I'm not saying we're completely white. Sure, there have been problems. You heard some of them and they might be justified.

**Mr Miclash:** Great. Thank you very much.

**The Acting Chair:** You still have about a minute and a half.

**Mr Miclash:** That's fine. Thank you.

**The Acting Chair:** Eight minutes, Mr Jordan.

**Mr Jordan:** Thank you, gentlemen, for your presentation. The part that bothers me on this bill is that, as you pointed out, the constitution is really the heart and soul of the local or the parent union. It would appear that what caused the government to come forward with Bill 80 was abuse of power by the parent union over the constitution of the local union.

How long was this going on? Did you people make any presentations to the Minister of Labour to say: "We can solve these problems ourselves. We have the mechanisms here to do it. We don't need a law through the Ontario Legislature"? How did this thing get out of hand and over to the Minister of Labour for a settlement when you'd think it could have been handled internally?

**Mr Tersigni:** I'd like to know the answer to that myself. I'm not going to try to guess at why. As I said in my brief, I asked Mr Mackenzie—and I don't believe he's a liar; I think he told me the truth a year ago when he said, "If it was my agenda, it would have been included in Bill 40." I have a lot of respect for that gentleman. So it's coming from somewhere else. The way I understood it, it was coming from up above. Where? I don't know, and I don't know why.

I'll tell you this: I've been around a long time. Bill Davis's government, with ministers of Labour like Bob Elgie and Bette Stephenson, I don't think had enough brains that knew to leave well enough alone. Everyone recognized, in even Davis's time, that our legislation was the best labour legislation anywhere in North America and it will stand the test, especially when you look south of the border at some of these right-of-work states. We've got section 1(4). Who the hell's got 1(4) like Ontario has? They had it in BC when the NDP was in. Then the other guys came in and they took it away from them. The NDP got back and they gave it back, but when they gave it back they couldn't make it retro.

1710

You see all these hammerheads out in Victoria. I said to an engineering friend of mine, "It's great to have all this work." He said, "Yeah, but they all went scab."

I believe the minister when he said, "If it was my agenda"—and he's been around a long time—"it would have been in Bill 40." So I can't answer that question, I'm sorry.

I did meet with Mr Peterson when there was trouble with the Laborers out in London. I think, from his opinion, what he was getting was that their international was acting unfairly; I think they might have been. But because one international in one area does that, does that mean we all have to be sacrificial lambs for one?

I say to you, put Bill 80 to the test. Scrutinize it by trial, by cross-reference. We're only into the two sections. I haven't got into the other end of it because I knew I didn't have time. I'll say this frankly and honestly: If Bill 80 is good—and maybe it is—why isn't it good right across unions? You're talking about a constitution, a parent body. Why isn't it good for your political parties? Put yourself to the test of what this says; then you'll understand where we're coming from.

A union's a union. As I pointed out, we're completely different from everyone else. We have locals we represent that have industrial bargaining units, have motor panel shops that this doesn't affect, because it only affects our construction divisions. What about all our maintenance guys who work out in service trucks? It doesn't affect them. It's not construction.

I think there has to be a lot more thought put into exactly what you're doing. I suppose if it can be narrowed down and put out in a manner that promotes union democracy, I'd be all in favour of it; I don't think this does in its present state.

**Mr Jordan:** Okay. Supposing we follow your suggestion and withdraw Bill 80 completely, now that these problems have been brought to the attention of the Legislature and the public generally, how fast and in what manner would the corrections or adjustments be made through your own constitution?

**Mr Tersigni:** What problems are you referring to specifically?

**Mr Jordan:** The problems that initiated Bill 80.

**Mr Tersigni:** Can you be more specific?

**Mr Jordan:** I'm not in any position to identify your problems, but from what I've been able to observe by listening and reading some of it, my understanding is that something that to me is internal to the union has now been placed in the Legislature. I'm wondering, if it's taken out of the Legislature how you're going to handle it.

**Mr Tersigni:** What I would do is go right to the Ontario Labour Relations Board. I've been there before, against my own international. I'll give you the reference: general precedence maintenance agreements. The only relief I need is at the Ontario Labour Relations Board. There's unfair labour practice, no matter who does it, whether it's an employer, whether it's an international union. I mean, do you think we get along great all the time? Well, we don't; we have problems.

That's a mechanism for resolution. But my quickest—bingo, two weeks—was the Ontario Labour Relations Board, unfair labour practice. "You violated our collective agreement. You imposed an agreement on us that isn't valid under here." We go to the labour board.

**Mr Jordan:** Excuse me, but it was stated earlier that if I went there I would be named and my name would be



known in the local or through from the international.

**Mr Tersigni:** So what?

**Mr Jordan:** I could lose my pension, I could lose my—

**Mr Tersigni:** I've been put on the docket with our own international; they had what you call a kangaroo court. The guy said, "You were drunk in Baybury," and went through 15 years of my—I said: "Yes, I was drunk. So were you. So what? What's next?" On you go.

The Ontario Labour Relations Act gives us the recourse I think we need to leave the IBEW if we want, and that would be decided by a majority vote of our members if they so desired. That might happen some day.

If we're being treated by our international unfairly, I'd be right in front of the Ontario Labour Relations Board. The fellow in Pembroke who didn't like the amalgamation went to court. He had his day in court. I know that with this you can go there as well.

**Mr Jordan:** You're satisfied that the present mechanisms are there to solve this problem.

**Mr Tersigni:** Not only that, I do not want any government, whether Bill 80's right or not, interfering in the constitution of our union, because it transcends the constitution; it gets into our collective bargain agreement. We've got God-damned employers, excuse the language, in here. Why aren't they here? I'll bloody well tell you why they're not here: because they're just sitting on the sidelines.

My biggest fear is, when this is all said and done, they'll say: "What are you guys bitching about? Our labour-friendly government did this to you. Why can't we go in and amend the damn mobility thing you've got in here, in this constitution?" which we've had for 100 years in our collective agreement that they can't touch. That's the problem I've got, not so much with what Bill 80's supposed to be, to protect democratic rights. I believe in all those things. I don't like governments interfering in our internal affairs.

**Mr Jordan:** I agree with you.

**The Acting Chair:** Thank you very much, Mr Tersigni and Mr Ryan. I appreciate your coming in to present your views.

#### BOILERMAKER CONTRACTORS' ASSOCIATION OF ONTARIO

**The Acting Chair:** The next presenters are Mr Fanelli and Mr Schel from the Boilermaker Contractors' Association of Ontario. If you would come forward, please.

You have half an hour. You can use the full half-hour in any way you wish; however, the committee would appreciate some time at the end to ask some questions. So if you use up all your time, then we don't get to ask any questions. I'll let you decide how you're going to do that. You can begin any time. Please identify yourself on the record for Hansard.

**Mr John Schel:** Thank you, Madam Chair. I guess you can hear me?

**The Acting Chair:** We have speakers.

**Mr Schel:** My name is John Schel. I'm the president of the Boilermaker Contractors' Association of Ontario,

and with me is Mr Tony Fanelli. He's the chairman of our board of directors.

I've passed out to Tannis a copy of our submission, which I assume has been distributed. What we've tried to do is to be as restrictive as possible in the amount of words we've used. We've tried to give you some idea of where we're coming from, where we're at and what our concerns are. It's my understanding that we're probably the first group that represents employers to speak to you today. I'm not going to read this brief; I'm just going to try to explain the highlights of it. I'll try to keep my submission as brief as possible to open it up for questions.

The first page deals with our history, and that's important for us because what we're concerned about, of course, is the evolution of how we came to be and why we are where we are today, not only as the BCA of Ontario, as we refer to ourselves, but also as the BCA of Newfoundland and the other provinces which we're also associated with.

The history shows that our contractors have worked in some capacity with the locals and the internationals well back into the 1950s, according to the records I have in my offices. Over that period, we worked a relationship such that we have what we believe is the best of both worlds, the best of conditions for our workers and good conditions for employers. This was not done overnight, as I've indicated. It was done through the process of dealing with the reality of the fact that labour laws are on a province-by-province basis and setting up organizations that are sensitive to that province-by-province basis.

#### 1720

The end product we have today is that we negotiate one collective agreement which is valid in eight provinces as well as the Northwest Territories. Since 1988, we've now gone back as the Boilermaker Contractors' Association of British Columbia into BC, where we have a collective agreement in place. I may add as well that based on recent discussions in Quebec there may very well be the outside possibility, in part thanks to the government of Ontario, for allowing our form of association to re-establish itself in Quebec.

The concern and why we've developed the way we are into a series of provincial associations is the reality of the group we work with, which of course is the boilermaker union, and the fact that, as anybody who works in the construction industry recognizes, there are ups and downs of the marketplace with any particular province and in the country as a whole. As we've indicated on page 2, the result is that there are times that up to 40% of the Ontario boilermakers are working outside of the province of Ontario.

At times there are major shutdowns or major construction. For example, the oil sands in Fort McMurray, Alberta, was not able to be done by boilermakers resident in Alberta—it was just too massive a project—and there was a great deal of Ontario boilermaker work there.

The concern we have is if there are changes in Bill 80 which result in some restructuring of what currently exists between the locals and the international, or some



break-off into some other bodies from the various locals that exist today within the international, as employers we're going to be restricted in the amount of workers we have available to us to work outside the province of Ontario, and also inside the province of Ontario.

Within the province of Ontario, we are the registered designated authority for employers in the ICI sector, and I appreciate that Bill 80 does respect our rights to maintain that type of relationship. But I was doing a little work last night on man-hour studies, and it shows that in the last two or three years approximately one third of the boilermaker union's man-hours have been in our sector. What other sectors the boilermakers have worked in, obviously I don't know, because it's not within my knowledge, although I do know they do an awful lot of work in the electrical power systems sector. A concern we have is to presume that some other union will take over in the electrical power systems sector. Those workers who go there will not be accessible to us; hence, when we have a heavy workload in Ontario we may find ourselves—I say this with a bit of embarrassment, being a resident of Ontario—having to go outside the province to find skilled tradesmen to come into Ontario to do our jobs here in Ontario. It is a fear for us. That is the result we can see.

The concern we have is that in this evolution we built up over time, when we negotiate, we negotiate with the local and the international president. We're not here to in any way talk about the constitutions between the local union and the international, because we really don't know. It's none of our business, just like it's none of the union's business about our constitutions. We appreciate that. But we have a concern that there's an imbalance created which is going to jeopardize jobs for us.

We are a unionized contractors' association. I take pride in saying that because our sister associations in other provinces right now are having some major problems because of the various other ways of going about doing construction work, specifically non-union, vertical unions and things of that nature.

What we've managed to do through the relationship we've built is, for example, in the province of Ontario, employers contributed \$1.5 million in 1991-92 to put into training and education and apprenticeship programs for boilermakers here in Ontario.

We have put into place a national pension plan, so that if a boilermaker works in Alberta or he works in Newfoundland, it goes into the same pension plan. The same exists with the health and welfare plan. We put all those things into place.

The way we see it from our perspective is that many of these policies were put into place by the leadership of the international, who had the wherewithal to tell us that it would be good to have pension plans, that to organize among the various locals across Canada is to their benefit.

We agree with them. We believe they have one of the best pension plans. At the bargaining table we call it a Cadillac plan. That has existed because of the cooperation they somehow have between them, and we're very concerned about anything that could take place to destroy

that. Having said that, I'd like to turn it over to Mr Fanelli.

**Mr Tony Fanelli:** One of the items we have as an association in the province of Ontario with respect to the labour relations board is that this bill that's being talked about may change the policy in terms of how grievances or how issues need to be resolved in this province.

The labour relations board should operate as a complaint mechanism to deal with problems. The way to do that is, if a local or an international or a contractor has a problem with a collective agreement issue or any matter, that it be brought up as a complaint to the labour relations board. There is some fear that this bill may change that. If that happens, I think it would cause a lot of disruption in the marketplace, which then would hurt us as an employers' group, where the owners would look at other vehicles to do their construction work.

There are many members of our association who work closely with owners, and one of the main concerns we get hit with continually is disruptions on the job, work jurisdiction. Certainly we have a mechanism in place to resolve all those problems, and we feel the labour relations board has worked very well in resolving those issues.

If there's a problem that exists with a local or an international, it ultimately will show up on the job site. We certainly don't need that in these times we're now facing economically in this province, where the investment market has been very poor. So that's one of the main concerns from many of the contractors, that the board should operate, as I mentioned, on a complaint system, not on a policy. This bill will change some of that, we feel.

**Mr Schel:** We're open to questions, Madam Chairman.

**The Acting Chair:** You have about 18 minutes left in total. Before we begin, though, today is opposition day in the House and there will be a vote. The bells may start ringing, which requires the committee to rise and move to the House. Luckily, rotation starts with the Liberals, so the members who will not get to ask questions, if that does occur, will be the government side. We'll begin with Mr Miclash.

**Mr Miclash:** Thank you very much for your presentation. One of the main things I'm interested in is to hear from groups such as yours about why you see the present government bringing in this legislation. From your perspective, what do you see in this legislation in terms of why it would be coming forth?

**Mr Schel:** To be quite honest with you, I don't understand why. In fact, there have been changes in legislation in other provinces. The one I was quite involved with was the situation in Alberta a few years back, with Dr Reid at the time, where they made changes; nothing regarding Bill 80, but changes in labour law in general within the construction industry.

I mentioned that because at the end of the day—patting myself on the back a little bit—they did follow the suggestions I made. I was the only non-Albertan involved in the process. At the end of the day, they set up a

tribunal to review the whole thing and accepted our nominee as the employer representative, which I thought was quite a pat on the back.

If you look at the legislation there, it's single-trade, province-wide bargaining. That's what we asked for and that's what we got at the end of the day. It's working well. In fact, for the most part I take pride when I'm asked by various governments across the country, "What should we look at as a standard bearer?" More often than not, in fact most times, I suggest looking at the Ontario legislation and also looking at the Ontario Labour Relations Board, because I believe the current Ontario Labour Relations Board is truly concerned with the intent of what the parties should be doing rather than playing around with what we as employers, some of our employers, try to do, play games to get around their commitment as a unionized employer. I think the Ontario board stands above everybody else in that regard. Based on that, I see no reason there needs to be any change.

1730

**Mr Miclash:** Tony, you touched on a point in terms of the effect this legislation will have on jobs. Could you expand a little about how you see that it would affect existing jobs, jobs presently being held, and the creation of new jobs down the road? How will Bill 80 affect these?

**Mr Fanelli:** If there are any situations which arise where a local union, through its own democratic process, cannot see itself through in resolving its particular problems through its own international, the feeling is that it would take its bargaining rights and would take its entire autonomy outside of its present role and begin to establish its own. Employers like us, because we have province-wide bargaining, work in all areas of this province, and if one particular union or local wanted to step outside the present boundaries it now holds, it would cause a disruption in the job. Transfer of employees would become a difficulty. Sister locals wouldn't want to have transfers that open and that readily. When we work in the province of Quebec, as an example, there are doors that are not open to transfer employees.

There's an array of problems that could arise as a result of this type of legislation, and we feel the system that is presently in place has worked very, very well. Any changes put in place would change the security owners have, in terms of a unionized workforce, to carry on construction work on their site, and we're concerned about that. It certainly has the potential of altering present jobs, where a local may decide it needs to take a different path, and it certainly may change the way work gets done in the future. Those are the concerns.

**Mr Miclash:** I appreciate that. Do either of you know of any other jurisdiction where the government has the power that Bill 80 will bring in, any other jurisdiction at all?

**Mr Schel:** None across this country that I'm aware of.

**The Acting Chair:** Mr Jordan, six minutes.

**Mr Jordan:** Thank you, gentlemen, for your presentation. I'm right in understanding that this is an employers' union?

**Mr Schel:** We are an employers' association. I represent 300 employers across Canada.

**Mr Jordan:** Companies?

**Mr Schel:** Companies, yes.

**Mr Jordan:** Which puts you in a unique position relative to the other people we've had coming forward on this issue.

You mentioned, Mr Fanelli, that presently your problems are well served through the Ontario Labour Relations Board and you fear a change coming there. Is it in more power to the board or is it in—

**Mr Fanelli:** If the board were allowed to commence interpreting the internal operations of a union, whatever comes out of that may ultimately find itself on a job site, which would cause problems on a job site, which would cause possibilities of job disruptions on a site. Those are the kinds of things that owners and employers certainly are concerned about. The system we have in this province has generally worked well in resolving the problems with employers, with unions, with locals and certainly with internationals.

From an employer's standpoint, we do not want to get involved in the internal operations of a union. That's entirely up to them. They have their own conventions, they have their own meetings to try and set their bylaws and constitutional laws. But the moment there's a possibility that those problems may find themselves on the job site, then yes, that's a concern to all of us in the industry.

**Mr Jordan:** Basically, then, you stand to more or less lose the autonomy or the control of something you've worked towards for a considerable length of time. When it comes to settling a dispute or an issue, you're going to have government intervention through the board?

**Mr Fanelli:** I don't quite understand your question.

**Mr Jordan:** The constitution is what you go by now.

**Mr Fanelli:** The unions do.

**Mr Jordan:** Well, you have a constitution also, your association.

**Mr Fanelli:** Sure.

**Mr Jordan:** So you go by that also, to settle your disputes and if it can't be settled there you go to the board. No?

**Mr Schel:** Our constitution doesn't speak to grievances. A grievance is an issue because of a dispute within the terms of the collective agreement. If either side has a problem with that, then they can go to the labour relations board to handle the complaint. Our constitution deals with employers in our organization: what services we provide for them and what they have to provide to us, namely, their bargaining rights to speak on their behalf, that sort of thing.

Our interaction is with the union where there is a dispute with the employer, not really the association, because we negotiate collective agreements and things of that nature. Those disputes are then taken to the board to be resolved if we can't resolve it among ourselves.

**The Acting Chair:** No more questions, Mr Jordan? Then six minutes, beginning with Mr Cooper and then Mr Hope.



**Mr Cooper:** First of all, I'd like to thank you for your presentation as an employer group. I can understand where you have a bit of concern about what's happening. I'm trying to figure out, is some of your concern about the successorship or disaffiliation clause in the original bill?

**Mr Schel:** Not necessarily, Mr Cooper. It relates to a number of things. One thing we don't mention in our brief is the section with regard to the health and welfare and pension plans where you must have representation from the local equal to the number of members relative to the whole body, if it's a multiprovincial type of plan. Well, we have a multiprovincial type of plan.

First, it's jointly trustee'd, so we take management out of the picture because this bill only speaks to the union side of it. I believe what it says is that the Ontario local or locals must be proportionate to the number of members who are inside the plan.

In Ontario, the boilermakers have two locals. One local is all in the province of Ontario. The second local extends from Thunder Bay to the Saskatchewan-Alberta border. Now, is that person an Ontario representative? If he is, there's no problem. If he isn't, does that mean what the business manager in one of the other construction locals in Canada has to step down?

The unions set this up, on their side, how they want to be represented, and they made sure that every business manager of every construction local that's in the plan has a seat. So there are more locals than there are internationals, if you want to make a split, but those locals aren't necessarily from Ontario, because it's a national plan.

What do we do with it? Do we carve Ontario out? It doesn't make sense, because the reason we went that way was to allow people to transfer back and forth to reduce the overall cost of administration, and now we want to tear it apart? Or do we let them in and out depending on the workloads in Ontario, which go up and down like every other province?

**Mr Jordan:** Mostly down.

**Mr Schel:** Unfortunately, right now it's down.

**The Acting Chair:** Across the country.

**Mr Schel:** I wouldn't quite say that, Madam Chair, because our man-hours in British Columbia are up.

What do we do with it? I don't know. Right now the way it's working, everybody on the union side is happy with it. As management, we find ourselves on a pension or health and welfare plan to be the cost-conscious people, because usually we find the union members want to keep buying more benefits, and as management people we say: "Wait a sec. We're prepared to let you go buy it, providing we can afford it." That's at risk.

**Mr Cooper:** One more question before I defer. Right now with our committee hearings, there is the chance that Bill 80 may not become law until next spring. Would it be beneficial to you, as an employer group, to have this sitting out there that long? As the government seems to be committed to passing this bill, would you rather see the legislation sooner or later?

1740

**Mr Schel:** Personally, I'd rather not see the legislation at all. The way I look at it is, if this legislation goes through and the worst-case scenario takes place, our association will adjust to whatever we have to do. But to be quite honest with you, and I guess the reason we decided to ask for a seating here, is to let you know our concerns. I suspect most of our counterparts have taken the position, "Let's not bother coming."

We will react to it. The unfortunate thing as I see it is that it's going to be detrimental to the residents of the province of Ontario. We as employers will continue to do our business. Unfortunately, we may have to find our tradesmen in other provinces because the tradesmen we're paying all the money to train here may have gone to another union. Being a national body ourselves, by adding up all our various provincial associations, we're caught in a quandary. Maybe it's best to get this thing off the table as quickly as possible.

**Mr Hope:** I'm still having a hard time with this, as one who understands master bargaining. You represent a number of employers. What stops one more bargaining agent from coming to the table and representing the specific concern of a group of individuals, and they are of the trade? I question that. Where's the problem with the employers for a bargaining agent—it might be a different name, but it has a specific concern of its members—sitting at the bargaining table negotiating these items? I was looking through the IBEW brief, and it clearly sets out jurisdictions, it clearly sets out areas. What's the problem? Why would it be such a problem to have another bargaining agent there at a table?

**Mr Schel:** I'm not sure who you're—

**Mr Hope:** It was one of the exhibits that was handed to us earlier, which clearly outlines—as one who has dealt with master bargaining, I'm questioning where the problem would be. If one local has specific concerns of its membership to be aired at a bargaining table, where does that lose the balance?

**Mr Schel:** I'm not sure I totally understand your question, but let me try to answer it this way. In various provinces, the various associations are the registered bargaining agencies for the ICI sector, and by now you must know that's industrial, commercial and institutional. We are registered in Ontario as the BCA of Ontario; that's it. In Alberta, it's the BCA of Alberta; the same in New Brunswick, the BCA of New Brunswick.

We negotiate only in the ICI sector, yet the union members we have the ability to employ work in other sectors besides our sector. An example here in Ontario is the electrical power systems sector. The example I was using was that if another group decided to carve out the EPSCA sector, the Electrical Power Systems Construction Association, and go with another group—not the International Brotherhood of Boilermakers but the Canadian brotherhood of whatever—we have no privity of contract with them because we don't negotiate that collective agreement. EPSCA in the province of Ontario is our counterpart to negotiate with the Boilermakers. I sit on that committee as a member of it, but I don't negotiate.



**Mr Hope:** But you represent a group of employers covering a geographic area.

**Mr Schel:** Yes.

**Mr Hope:** I'm now the leader of one of these dissidents that's being referred to that has the labour force you're looking for, and I'm saying that if you want some of that labour force, you're now going to negotiate with me, representing those workers. There might be four or five different unions, but we're all sitting at the table. We're going to air our concerns and we're going to draw up a book like this that will have a local agreement when you use my workforce. I still don't understand the problem. I guess what I'm trying to get at is, from an employer's perspective, where your problem is.

**The Acting Chair:** About one minute.

**Mr Schel:** Would you represent the ICI sector for the union if you were the person?

**Mr Hope:** I'm saying I'm representing one of these dissidents out there. I'm representing the local union.

**Mr Schel:** If you're representing this dissident and he's taken a group of Boilermaker members and gone into this other sector, I can't touch him because I don't negotiate that agreement. I'm not designated to negotiate with him. I can only negotiate in the ICI sector. What I've lost is the ability to have those people work in my sector, because he's now in a different union.

**Mr Hope:** Let's say I stayed in the ICI sector. I got my local union autonomy, which you didn't want to be involved in. We've cleared up my local union autonomy, and I've got the workers you need. I'm an ICI labour force. Why can't I sit at the table and negotiate?

**Mr Schel:** I see two problems. One is that I think the draft legislation singles out the ICI sector, the current system where you have the councils and whatever. That's problem number one.

Problem number two that I see is that we could maybe argue the fact that yes, we're prepared to come to the table, but we know in reality that to sit there with all these various locals across Canada and this other group in there to represent a portion of the members for a portion of the province is going to be a very chaotic situation.

Maybe we've been lucky, because we've never had a strike in our history: coast to coast, anywhere, we've never had a strike. We've used your conciliation services quite a bit, but the reality is that with the professionalism that exists between our association and the unions, and really to a great extent the international because they've been around so long, they know us well enough that when we get into a real argument they become effectively like a mediator. It all seems to work.

**The Acting Chair:** Thank you very much. We appreciate it. You are the first employer who has come forward since we've started the hearings; thus far, one of the few I think that has taken the time to come forward, so it's much appreciated.

**Mr Schel:** We'd like to thank you for inviting us and thank you very much for listening to us.

**The Acting Chair:** Thank you. This committee is adjourned until Wednesday at 3:30.

The committee adjourned at 1746.







## CONTENTS

Monday 22 November 1993

<b>Labour Relations Amendment Act, 1993, Bill 80, <i>Mr Mackenzie</i> / <i>Loi de 1993 modifiant la Loi sur les relations de travail</i>, projet de loi 80, <i>M. Mackenzie</i> .....</b>	<b>R-547</b>
Terry Fraser; Terry Lewis; Barry Fraser .....	R-547
Canadian Federation of Labour .....	R-551
James A. McCambly, president	
IBEW Construction Council of Ontario; International Brotherhood of Electrical Workers, Local 773 .....	R-555
Ralph Tersigni, council executive secretary-treasurer	
Doug Ryan, council president and business manager, Local 773	
Boilermaker Contractors' Association of Ontario .....	R-561
John Schel, president	
Tony Fanelli, board chairman	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chair / Président suppléant:** Murdock, Sharon (Sudbury ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

Fawcett, Joan M. (Northumberland L)

**\*Jordan, Leo (Lanark-Renfrew PC)**

Klopp, Paul (Huron ND)

Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

**\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)**

**\*Wood, Len (Cochrane North/-Nord ND)**

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Harrington, Margaret H. (Niagara Falls ND) for Mr Huget

Hope, Randy R. (Chatham-Kent ND) for Mr Klopp

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer

Martin, Tony (Sault Ste Marie ND) for Mr Waters

**Also taking part / Autres participants et participantes:**

Miclash, Frank (Kenora L)

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service

C17011  
YC 13  
-576

R-25



R-25

ISSN 1180-4378

**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Wednesday 24 November 1993

**Journal  
des débats  
(Hansard)**

Mercredi 24 novembre 1993

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

**Labour Relations Amendment Act, 1993**

**Loi de 1993 modifiant la Loi  
sur les relations de travail**



Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 24 November 1993

The committee met at 1537 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

**The Acting Chair (Mr Dan Waters):** I call the meeting to order. This is the standing committee on resources development and the bill we're discussing is Bill 80, An Act to amend the Labour Relations Act.

ONTARIO SHEET METAL WORKERS' AND  
ROOFERS' CONFERENCE

SHEET METAL WORKERS'  
INTERNATIONAL ASSOCIATION

**The Acting Chair:** The first person up is actually, I believe, Mr Jerry Raso. I understand we have booked it as three different groups, but in actuality you're all at the table at this moment.

**Mr Jerry Raso:** All but two other persons, but we're all here.

**The Acting Chair:** I've talked with some of the committee members. Do you wish to do separate presentations or do you want to do one presentation where all of the members of your group present at once?

**Mr Raso:** It will be a mix of both. We intend to basically follow the three separate briefs in terms of questions and answers, but the time may overlap. We don't intend to restrict ourselves in terms of time.

**Mr Steven W. Mahoney (Mississauga West):** You're an attorney? You're representing all three of these groups?

**Mr Raso:** I'm in-house legal counsel.

**Mr Mahoney:** The only reason I ask is that I have to go to a House leaders' meeting at some point, so if we're going in one presentation of all three, I may be here for only part of it and another, so it will be a little inconsistent. That's all right, as long as you understand that.

**Mr Raso:** Yes.

**Mr Mahoney:** You're presenting for all three, though.

**Mr Raso:** I'm not the only person talking, no. There will be five or six of us speaking.

**The Acting Chair:** But if you're dealing with overlaps and you start eating up each of the groups' time, it creates a problem for us, because what we normally do is ask for a 15-minute presentation and 15 minutes for questions. We would do that with each group.

**Mr Mahoney:** I could leave and not be here in the middle of a presentation, if you follow me.

**The Acting Chair:** Could we do it that way then, to save confusion?

**Mr Raso:** Yes.

**The Acting Chair:** Could you please introduce your

first group to the committee, for the sake of Hansard.

**Mr Raso:** My name is Jerry Raso. I am in-house legal counsel for the Ontario Sheet Metal Workers' and Roofers' Conference. To my left is Mr George Ward. He is the business manager of the provincial conference. The conference is the provincial body of 11 Sheet Metal Workers' and Roofers' locals in Ontario. Also with me in attendance, to my right, is Mr Jim Moffat. He's the business manager of Local 30, Toronto. To my far right is Mr Al Budway. He's the business agent for Local 30. At the very back wall is Mr Owen Pettipas, Local 537, from Hamilton. To his left is Mr Jack Ouellette, business manager, Local 504, Sudbury. Back there is Mr Tim Fenton, the business manager of Local 397, Thunder Bay.

**The Acting Chair:** You obviously have a presentation. If you wish to do that at this point in time, please do so. As I said before, try to leave some time at the end for some interaction between the committee and yourself.

**Mr Raso:** As I stated, the Ontario Sheet Metal Workers' and Roofers' Conference is the provincial body of the Sheet Metal Workers' and Roofers' locals in Ontario. There are 11 locals. We represent sheet metal workers and roofers in the province of Ontario in the construction industry. We have approximately 10,000 members.

In terms of the industrial, commercial and institutional sector, the provincial conference, along with the international, is the employee bargaining agency which conducts collective bargaining for all Sheet Metal Workers' and Roofers' locals in the ICI sector of the construction industry.

The structure of the conference: It is run by one executive board which consists of the business manager of each local. Its day-to-day activities are conducted through the executive board with each local having one vote, so they're one local, one vote.

When Bill 80 was originally introduced in June 1992, the executive board conducted a vote in terms of whether to support Bill 80 in its original form with five points, and the conference voted to support Bill 80. The vote for the five-point bill was 7 to 4.

We will be addressing, basically, the bill in the intended revised form. One of the points that's being proposed to be deleted is the successorship provision, section 138.6. Since then, with the fifth point gone, support for Bill 80 in our union has gone up from 7 to 4 to 10 locals in support and one local against. The Sheet Metal Workers' Conference therefore strongly supports Bill 80 in its present form.

Before I begin, generally you've heard and you will continue to hear from representatives from the internationals themselves that there is no support for Bill 80. In fact, watching the Hansards or the debates in the House, we've also heard that from the Labour critic for the Liberal Party.

If I may, in the Hansard of October 4, 1993, page 3222, the quote is: "I don't have any letters from proponents of Bill 80. Maybe that should tell you something." He goes on to say: "I would hope that we're going to hear from somebody who supports this bill. I haven't."

The first thing I'd like to say is our union, and I know many other unions, have publicly supported Bill 80 since June 1992. I don't understand when Mr Mahoney states that he hasn't received any letters from proponents of Bill 80, because on August 18, 1992, George Ward, on behalf of the Ontario Sheet Metal Workers' and Roofers' Conference, sent a letter to Mr Mahoney indicating its support for Bill 80. In November 1992 Mr Mahoney received a letter from a group called the Committee of Ontario Construction Locals in Support of Bill 80.

**Mr Mahoney:** On a point of order, Mr Chair: I'd just like to know if we're going to deal with the bill or are we going to deal with your analysis of my speech?

**Mr Raso:** I'm sorry?

**Mr Mahoney:** I'm happy either way. I wonder if we're going to deal with the bill or your analysis of my speech.

**Mr Raso:** I am dealing with the bill.

**Mr Mahoney:** I think, Mr Chairman, he should be directed to the bill. I'm happy either way.

**Ms Sharon Murdock (Sudbury):** On that point of order, Mr Chair: The presenters have the option of doing whatever they wish to do in their presentation.

**Mr Mahoney:** I don't think that's true.

**Ms Murdock:** If it relates, Mr Mahoney, it doesn't matter how they do it.

**The Acting Chair:** I would ask that the presenter continue. I don't believe, Mr Mahoney, you have a point.

**Mr Raso:** In November 1992 Mr Mahoney received a letter and interpretative brief from an organization called the Committee of Ontario Construction Locals in Support of Bill 80. Signing this letter and interpretative brief were 11 persons representing many, many construction locals in Ontario, including George Ward, the business manager of our conference.

Also signing that letter were John Haggis, from the Bricklayers union, Local 5, in London; Mike Quesnel, the International Union of Bricklayers, Local 10, in Kingston; Joe Fashion, IBEW, Local 353, Toronto; Victor Claro, Laborers' International Union, Local 247, Kingston; Mike Cummings, Laborers' International Union, Local 597, Oshawa; Rob Leone, Laborers' International Union, Local 1089, Sarnia; Ron Walsh, International Union of Operating Engineers, Local 793—that's an Ontario-wide local; there is only one operating engineers' local in Ontario and it overwhelming supports Bill 80; John Sprackett, International Brotherhood of Electrical Workers, Local 1788—that too is a province-wide IBEW local which represents electricians working for Ontario Hydro; Jim MacKinnon, London District Building and Construction Trades Council; and the business manager of the Laborers' union in London, Ontario.

Overwhelmingly, there is a lot of support for Bill 80. All of these persons are elected officials representing

locals in Ontario.

Again, Mr Mahoney stated he hasn't heard from anyone who supports the bill. Well, I can understand maybe he could forget that he receives letters. But I personally met with him on May 4, 1993, to discuss why Bill 80 should be supported by the Liberal Party.

**Mr Mahoney:** I didn't say I hadn't heard from anyone. I said I didn't have any letters when I was making the speech in the Legislature. If you want to persist in taking my comments out of context, sir, I will challenge you. I will challenge you because this is nonsense.

**The Acting Chair:** Mr Mahoney, I thank you for your clarification. Carry on.

**Mr Raso:** The statement was: "I would hope we're going to hear from someone who supports this bill. I haven't."

**Mr Mahoney:** Why don't you do that?

**Mr Raso:** The other point in terms of support for the bill is that, going over the list of persons speaking, there are basically two groups in terms of support of Bill 80 and opposition to Bill 80.

Opponents of Bill 80 appearing before you are presently international reps, not local unions from Ontario. Monday, November 15: Guy Dumoulin, Canadian building trades department, represents the internationals. International organization of ironworkers, the International Brotherhood of Electrical Workers, Canadian Federation of Labour—international organizations. Basically, you've got maybe three or four local unions speaking out against Bill 80 and that's it: three Electrical Workers unions and one Laborers' International union.

In contrast, you have approximately 13 or 14 local unions, representing rank and file members in Ontario who support Bill 80. They're all elected officials. Most importantly, you have the Toronto building and trades council, which represents the Toronto locals in Ontario. They had a vote on Bill 80. They presented the bill point by point. The fifth point, successorship, was rejected. The first four points were voted in favour by the Toronto council. They represent 55,000 members in Toronto. The majority of construction workers in Ontario are represented by that council. They had a secret ballot vote and four of the five points were accepted. We're here today to speak in favour of those four points.

1550

You're going to hear that the provincial building and trades council voted against Bill 80. I have to remind you and explain the circumstances of those votes. Last year there was a convention and the bill was rejected in its original form, the five points. This year there were more motions about Bill 80. Many people from the floor requested that the bill be presented and voted upon in its present form, in its present intention, which is the four points minus the successorship provision. That was not what was voted on at the building and trades convention. What was voted on was the original bill with all five points. Bill 80, in its original form, was rejected. Many persons tried to get Bill 80 debated point by point; that was not put to the floor.



I urge you to compare that vote with the vote of the Toronto building and trades council, which voted, point by point, on each point in the manner of a secret ballot vote. At the building and trades council there was a request for a secret ballot vote, and it was rejected by the chair. I urge you to accept the resolution and the decision by the Toronto building and trades council.

In terms of the fifth point, when Bill 80 was originally introduced the Sheet Metal Workers, as I stated, supported all five points. We did so in terms of the fifth point because we felt it was just and it was necessary. All it stated was that if local unions in Ontario wanted a vote on whether to disaffiliate, they could do so through the provisions of the Ontario Labour Relations Board and there would be a vote. If there was a majority of all members and a majority of local unions, meaning a double majority, voting in favour of disaffiliation, that union in Ontario could do so with the consent of the international.

We see absolutely nothing wrong with the fifth point. It simply provides for freedom of choice by rank-and-file members in Ontario. It doesn't even allow for automatic disaffiliation; it simply allows for a vote. Our union supported that. However, in terms of the realistic situation in Ontario, the majority, a large number of local unions and rank and file, did not support the fifth point; our union does. We recognize that and we are willing to live with the four points; we can accept that.

In fact, we urge you to consider that this is the compromise that most people can accept in Ontario. If you speak to people privately, even opponents, they have no real objection to the four points. If you go through the letters you've received against Bill 80, most of them, or virtually all of them, deal with the fifth point. They talk about chaos and instability resulting. They were talking about the fifth point and not the first four.

If the intention is to continue with the four points, we urge you to accept those four points and to pass them as they are and not weaken them. Especially with the fifth point being gone now, we need those four points. All the four points do is provide a minimum standard for international unions in their relationship with their local unions. They simply provide that they cannot act in penalizing or doing anything against the local unions without just cause. I don't think anyone can speak out against requiring just cause for any action or decision of the international.

It also provides, for collective agreements which are negotiated in Ontario and which affect the rank-and-file members in Ontario, that those local unions have shared bargaining rights. What you have now are collective agreements negotiated by the internationals with no input whatsoever by the local unions—no voting, no ratification by the rank and file. You simply have people coming in, negotiating collective agreements and changes without any input whatsoever from people in Ontario. Bill 80 will simply require that the local unions have shared bargaining rights.

The other point in Bill 80, the fourth point, is that for pension plans and health and welfare plans that affect members in Ontario the trustees will be selected by those

people in Ontario—again, a basic democratic right.

One question you'll be hearing, one argument, is that this should not apply only to the construction industry. Why just construction? This is being done for a very good reason. If you look at the Labour Relations Act, you will find there is a special section that applies strictly to construction unions, construction collective bargaining in Ontario. That's sections 119 to 155. It's the only industry that has its own unique provisions in the Labour Relations Act, and this is for a special, good reason.

The construction industry is unlike any other industry in Ontario. The first main distinction between construction and other industries is the predominance of craft unionism. Construction unions are organized along craft lines; you have Sheet Metal Workers, Electrical Workers, Boilermakers. Industrial unions are not organized along that line; they're organized by company: all employees who work for GM in the plant or all employees who work for Stelco or whatever.

The difference between craft unionism and industrial unionism is so strong that up until the 1950s there were two separate organizations in Canada and the United States, one for construction and one for everyone else. That changed in the 1950s when national bodies were linked together.

The second point that distinguishes construction from the other industries is the very nature of construction work. In industrial unionism people work in plants, they work for one employer and they work there indefinitely. When a union certifies a plant, it represents those workers in that one plant.

Construction is not like that at all. Construction work is characterized by short-term, temporary work which is dispersed geographically. Our members don't work for one company. They don't work on one site. They work for many companies in the province of Ontario, throughout the entire province; they go from company to company, job site to job site. When the job ends, they're laid off. They go to the union hall, which sends them out to another employer. Our members do not have ties to employers, generally. Many do, but generally they do not. Their ties are to the union; their ties are to the hiring hall. That's why our locals are organized on a city-wide basis, not on a plant-wide basis. Local 30 represents all sheet metal workers and roofers in the city of Toronto and just outside Toronto. That's because our members are tied to the union; they're not tied to the employer.

An important distinction is the fact that our members depend on the union for work. Sheet Metal Workers represents employers. Our collective agreements say that when you have sheet metal work done, you have to employ members of our union. If you're not a member of the Sheet Metal Workers' union, you cannot do work on any site that's being done by a company that has a collective agreement with the Sheet Metal Workers.

You have the distinction in terms of craft unionism and the fact that our members are tied to local unions, they're not tied to employers. They move from company to company and are dependent on the unions for work. That's why we have sections 119 to 155 of the Labour Relations Act.



First, in terms of craft unionism, the act encourages this and has codified craft unionism. You'll find that at subsection 6(3) of the Labour Relations Act, which basically mandates that construction bargaining units are organized along craft lines. Second, to reflect the nature of short-term, temporary work, you have an extremely highly regulated, comprehensive code which basically dictates how collective bargaining is run in the construction industry in Ontario.

You'll hear that the internationals do not want interference in construction collective bargaining—"We don't want regulation." The fact is that construction collective bargaining is extremely regulated already. In the ICI sector, the Labour Relations Act mandates that there will be one bargaining agency for unions, for the craft, and one bargaining agency for the employers. These people get together and have to negotiate one collective agreement for all sheet metal workers in Ontario. That's mandated by the Labour Relations Act.

The act mandates that if there's a strike, it has to be a province-wide strike. The entire Sheet Metal Workers' union goes on strike or no one in the sheet metal industry goes on strike. The act dictates that. The act tells us that our collective agreements run for three years. All construction agreements in ICI, by law, start on May 1 and, by law, end three years later on April 30.

It is extremely and highly regulated. You've already got that, and no one opposes that. This happened in 1977, when provincial bargaining came into effect, and it was done because of instability and to promote stability in the construction industry. Trade unions and employers like it. They've learned to live with it. It provides stability and it's highly regulated.

1600

One effect of this high regulation is to give a virtual monopoly on construction unionism to the international trade unions in the construction industry that are based in the United States. Craft unionism is basically international construction unions. The whole concept of provincial bargaining ties workers to their union. It's extremely difficult to leave your union presently. With province-wide bargaining, with the collective agreement beginning and ending at the same time for all employers, if you wanted to decertify as a group, you would have to do it at approximately the same time and decertify probably close to 1,000 or more employers in the sheet metal trade alone. I can tell you, the labour relations board could not handle that.

The other point is, if our members had a vote tomorrow to leave the Sheet Metal Workers' union and they left, they would lose their right to work on construction sites in Ontario. If they left, they would leave their right to work on sites that are organized by the Sheet Metal Workers' International Association, because only members of that union can work on those job sites. Practically speaking, we cannot leave. It's very, very impractical for the sheet metal workers, if they want to leave the international, to do so. With the successorship provision gone and with the practicalities of the construction industry, our members have to stay in the Sheet Metal Workers' International Association.

That's why we urge you to accept the four points. If we have to stay in, there must be basic rules, basic minimum legislation to make sure the internationals conduct their affairs along lines following principles of fairness and democracy. That's all Bill 80 states. You hear, "This is so intrusive." From our position, and I think you'll agree, that's all it is: minimum standards legislation. Basically, it says that if you're going to do something, you'd better have a good reason to do it. If members in Ontario are under a collective agreement, they have a right to have a say in that collective agreement. If members in Ontario have a pension plan, they have a right to name those trustees who are going to run that pension plan. That's all Bill 80 says.

If you compare it with legislation in the United States, the Landrum-Griffin Act, that is an incredibly highly intrusive piece of legislation. It is a comprehensive code for internal union affairs in the United States. It sets out substantive and procedural rights for union members. It requires votes by secret ballot in terms of elections. It mandates that all candidates have to be treated equally by the international union. They have to have access to lists of members. They have to have the right to have observers during balloting and counting of ballots. It's extremely intrusive. I've included a copy of that at tab 4 of our brief.

The international unions are based in the United States and they have their own highly intrusive act, far more intrusive than ours, and yet we don't hear them screaming about that. If you compare them, ours is much milder. We approve of that. We don't want an intrusive act. What we do want is minimum standards legislation.

In terms of the specific provisions of the bill, I'll just address two main ones: first of all, work jurisdiction, altering jurisdiction. The act presently states that internationals cannot alter jurisdiction in terms of geography, sector or work. What you're going to be hearing, and I think you've heard from the Canadian council, is to delete the word "work" from the prohibition on altering jurisdiction. We think that has to stay.

Our international union, our general president, has the absolute right to unilaterally alter jurisdiction in Ontario without any input whatsoever from the local unions. Our constitution says the general president has the full authority to specify, designate or change the specific territory, project or projects and classes of work over which each local union or district council shall exercise jurisdiction. The general president has absolute authority to change anything he or she wants in Ontario. That's why we need that jurisdiction clause the way it exists.

In terms of another important provision, trusteeship, the international cannot assume supervision or control over a local union or interfere directly or indirectly without just cause. That is an extremely important provision and it has to stay the way it is. Our general president has incredible powers to do literally anything he wants, and it's based on very vague language in our constitution, such as that he has general supervision of the association. He can act in any way which is in the best interests of this international association. He has direction and supervision of all local unions. He has

authority to take such action as he deems necessary to protect the interests and welfare of this association.

If trusteeship is imposed, he has the authority to suspend from office for the duration of trusteeship, with or without cause, local union or council officers. Those are provisions in our constitution that are very offensive, and that is why we need Bill 80. There's no requirement that he act with just cause when he assumes trusteeship. That's why Bill 80 has to state that he cannot act without just cause—a basic democratic right.

There are other provisions of our constitution which are extremely offensive: Violations of our constitution such as condoning internal strife which is detrimental to the best interests of the international. What does that mean? I think that means if you support Bill 80, you're violating the constitution.

Insubordination is a violation of our collective agreement. What does insubordination mean? These are elected officials, and yet if we are insubordinate to them, we're violating our constitution.

Treasonable conduct is a violation of our constitution. What does treasonable conduct mean? Supporting Bill 80 is probably treasonable conduct.

Our constitution gives incredibly wide powers to the general president—vague language. He can do anything he wants. He has incredible powers as well. He has the power to impose trusteeship, revoke the charter of a local union, the power to modify, revise, defer, suspend or reverse any decision of any local union. He has the general power to take other appropriate disciplinary measures.

The power that the general president has in our constitution is incredible, and that's why we need Bill 80. The main reason why we need it is because there are no checks and balances anywhere to protect individual members, officers or local unions from abuse by its international. The appeal procedure in our constitution is basically to the general president. He's the prosecutor, the judge and the jury.

If you're charged and you're found guilty of a violation—treasonable conduct, insubordination, encouraging succession—you appeal to the general president himself. If you don't like that, you go to the general executive council, of which the general president is the chair. If you don't like that, the final appeal is to the quadrennial general convention, which is the convention of the entire union, but you don't go to the rank and file, you don't go to the delegates. You make your appeal to the grievance and appeals committee, which is appointed directly by the general president.

You make your appeal to that committee. Then they make a recommendation to the floor on what should happen to your appeal—no debate. You don't address; they simply say, "We accept the recommendation of the general president," or, "We reject it," the rank and file, the delegates, vote on that. The general president is involved from beginning to end.

The other point is the courts and the labour board presently do not get involved in internal union affairs. You have to exhaust all your internal remedies, your

internal appeal procedure. That is this procedure, and it can take literally years. The final appeal is to the quadrennial convention. It can take years for an appeal.

**1610**

There's no justice inside the international union. There's no body of international unions or construction unions that you can go to either. That's it.

We've heard from Mr Mahoney that in terms of trusteeship there's a system: They have to make application to apply a trusteeship. They have to be subject to review every 12 months to allow the trusteeship to stay in place. They can't just arbitrarily ride into town on horseback with their guns out and say, "Get out of here; I'm taking over the union."

That's in fact what they can do. They can do that. Our constitution allows that. If the general president feels that local is not acting in the best interests of the union, you're under trusteeship. If it's guilty of insubordination, it's under trusteeship. They do ride into town. The Labour Relations Act presently, section 84, simply requires that you notify the labour board of the trusteeship—no questions asked. Afterwards, after the trusteeship has been in place for one year, you have to notify them again, and it can continue with the consent of the board. But the board takes a very strict view of getting involved in or interfering with internal union affairs.

There's no recourse presently. Bill 80 is the only recourse we have.

The reason we ask you to pass all four points that are left and not weaken them is because they're all necessary. They're all avenues that an international can take. If you weaken one and leave three strong, the three strong ones aren't necessary because they now have an avenue. I look at it as a house with four doors. If you lock three doors and you leave one wide open, who cares that the other three doors are locked? As long as one door is open, they can do something.

That's why we need the trusteeship with a just-cause provision, that's why we need no altering jurisdiction without just cause, that's why we need the local unions to decide who will represent them on health and welfare plans and that's why we need local unions to have shared bargaining rights in terms of all collective agreements.

I'll just summarize: It's minimum standards legislation. That's all it is. It is not extremely intrusive. It protects local unions from abuse. If internationals conduct themselves well and in terms of fairness and democracy, they've got nothing to worry about.

**The Acting Chair:** Is that the end of your statements? Okay, I'll open the floor to questions.

**Mr Mahoney:** Where are we going? How much time are we going to have?

**The Acting Chair:** You ate up approximately 35 minutes out of your total hour and a half.

**Mr Raso:** I apologize.

**Mr Mahoney:** Not at all. I just want to know, are there other presenters?

**Mr Raso:** Yes.

**The Acting Chair:** On the same topic, from your



group? Can we hear from them as well first, I guess, at this point?

**Mr George Ward:** I'd like to thank the committee for the privilege to come and speak to you today. You have in your possession a letter that I had written to the Minister of Labour on September 3, and it basically talks about some of the wrongdoings that have gone on in our international.

Amazingly enough, back in 1985 I was charged by the international for saying a few things about a document called *Insuring Our Future*, which was a recessionary document that had been put together by international reps in Ontario. I was acting as the chair of the resolutions committee at the Ontario building trades, and my comments were that all they cared about is the per capita tax that keeps them in their fat-ass jobs. It was for that I was charged. I was threatened with removal from office if I didn't apologize, so I did of course apologize.

But I didn't say anything. I just simply condemned the document, that it was not in the best interests of the membership in the province of Ontario, and that's true. All they care about is their per capita tax which keeps them in their jobs.

From there on, I continually—I guess I've always been slightly at odds with the international because I'm kind of fiercely Canadian. By the same token, I think there is room for association with the international. But we have to pay a per capita tax of \$24.50 for every member to the Americans, for what service we get I have no idea.

Also in Mr Maloney's comments, he said the international has a great useful purpose of resolving jurisdictional disputes. I think the last jurisdictional dispute our international ever settled for us was way back in 1978, at Jackson Square in Hamilton on a metal pan ceiling, with the Carpenters. It was at Christmastime. The Carpenters worked over the Christmas holidays and put the ceiling in, in any event.

There was that one and there was also the taxation building in Sudbury when it was built in 1978-79, on a computer floor. The international made us turn the computer floor—we won the computer floor, but the computer floor was done by the Carpenters again.

Those were the last ones ever done by the international settling jurisdictional disputes in the province of Ontario for the Sheet Metal Workers.

I've spent a lot of time working as a business manager in Local 537 in Hamilton and I've spent a lot of time, 10 years now, for the provincial council, the conference, and I've spent almost a lifetime at the labour board fighting jurisdictional disputes. Again, I would like to commend the government when it put in Bill 40. The fast-tracking of jurisdictional disputes has resolved a lot of jurisdictional disputes very quickly and very expeditiously, and that's a credit to this government. I know I've spent a lot of 60- and 70-day hearings on jurisdictional disputes, with legal bills.

I remember one with Ontario Hydro. Our legal cost for that was over \$200,000 in that jurisdictional dispute. If anybody says the international comes in and settles jurisdictional disputes, that's baloney. If you've got the

work, you keep it until somebody takes you to the labour board and takes it off you. That's the rules of the game; that's the truth.

Also, if you read the letter that I had written to the Minister of Labour on September 3, you'll find out that—I'm getting ahead of myself.

In 1990 I went to a convention in Las Vegas. I arrived on the Sunday evening and there was a hospitality cocktail party. I guess I'd been in town with my wife about 15 or 20 minutes when we went into the hospitality room and they asked me if I would look after the door on the convention. I said, "No, I think I deserve a little more notice than that. You can tell the general president thanks, but no thanks. I'm simply here to talk about any increase in per capita tax and maybe do a little gambling and see what other things we can do about fixing our constitution to make it a little bit more palatable to Canadians," and I declined.

They sent one of their goons to see me, in front of my wife and some of the other members with their children there, and I was called a Canadian communist bastard. It's not right. Some people turn around and they say that the international is fair. Our international's not fair. That's garbage.

If you go further into my letter, you'll see that not only are they not fair and not only do they threaten people; they steal money. If you go through the piece, you'll find that in the national pension we, fortunately enough, held on. We took the pressure, because they tried to make us put our pension money in with their money in the States. It says in the letter that it was fully funded in 1987. That's a mistake; it was fully funded in 1989, 110%, and it had assets of \$1.8 billion. Now they cook the books and they say the accrual rate should be 8.5%; actually, the accrual rate today should probably be 5% or 6%. It's underfunded by \$800 million they stole—\$800 million.

Then, to go on, he treated the international as his own personal asset. They had a jet. They flew wherever they wanted. He flew up New Year's Eve with a few of his friends and his girlfriend, a lady by the name of Maria DeQuatro. They ran up a tab on the international credit card of \$7,200 New Year's Eve. Nice blast, eh? All out of our \$24.50.

Out of the per capita tax that they collected last year—\$27 million they collected last year—they spent all but \$200,000 of it. If they hadn't been doing dope—I mean, they give a new meaning to the word "jetliner," because that's exactly what they were doing: They were doing lines on a jet. The jet got impounded in Spain; the jet again got impounded in Japan. Doing drugs on our \$24.50. It cost them a lot of money to get somebody out there. He was arrested in Japan, and then that same guy has the right, as you read here in this constitution, over what all sheet metal workers and roofers do.

**1620**

Also, his girlfriend used to work in the office. She hurt her back. She went on a disability of \$8,000 a month, while at the same time she was working for a consultant and did consulting work for them. She made over \$1



million in five years; nice money. They're the same people who hold everything over us, and we're asking for a few simple minimum standards.

Somebody turns around and says, "Why do you want to leave the international?" I've got 800 million reasons why I want to leave the international. I have no idea what's happened to our business agent pension money. I know it's here in Toronto. We've got a law firm trying to find out what happened if they did get any of our money.

We've got one trustee on there; all the rest of them are Americans. We've got one trustee, and he happens to be a good friend of the general president. He is on Vancouver Island, out in BC. We've got one trustee; all the rest are American. It's a separate plan, and they should all be Canadian trustees on that plan. We have no idea where the money is. We don't think they've touched the money, but so far we haven't been able to find out. They've stolen millions and millions of dollars from the international. It's a lot of money.

**The Acting Chair:** If I might interject at this time, because I know that you have more presenters in your group. We somehow, because of the first presentation, have gone to a different format. You are now pushing well into the hour of it. If you can wrap your statements up so that some of your other members can get in and so we have some time for interaction.

**Mr George Ward:** Yes, if I could just shorten it up. Some people turn around and they say that there's not much support. Well, in a very short campaign and with the internationals watching us at every step and the membership being afraid, we had cards signed. There's over 2,500 cards there, and we have a petition with 1,488 signatures on it that supported the original bill with its five points. These guys, when they sign their name on there and their local union, they're breathing in the face of the devil, because if Bill 80 doesn't go through and there isn't protection or trusteeship, we're in a lot of trouble.

Just one other point before I leave. The Ontario sheet metal workers and roofers reaffiliated with their proper house of labour, the CLC and the OFL, because the internationals took us out some 12 years ago. We were threatened. I was threatened again with charges; if you read in our constitution, dual unionism. They said: "Ward, we support the CFL. You're into dual unionism when you put the people back in the CLC." I simply told them to take their best handhold, because at that time Bill 80 was starting to come out of the ground, and I knew that they wouldn't do anything to me as long as Bill 80 was around. If this Bill 80 fails, I guess you're going to see the last of George Ward.

**The Acting Chair:** Thank you. I'm going to make an arbitrary ruling here that because of the length of time of the presentations, if we could do them all and then we'll finish afterwards. So whoever else you have.

**Mr James Moffat:** First of all, I'd like to thank everyone down here for having the opportunity as well to come down and express the views on behalf of our membership in support of Bill 80. I'm the business manager and financial secretary of Local 30 of the Sheet

Metal Workers. To my right is Al Budway, a business representative with our local. We represent over 3,000 sheet metal workers and roofers in the greater Metro Toronto area. Our geographic area is a large one. It goes to the west to Highway 25, to the east to Highway 115 and 35 and to the north 12 miles north of Parry Sound.

I've been involved in the labour movement since 1974. I've been a sheet metal worker, served a five-year apprenticeship, become a member of the Sheet Metal Workers' International in 1967. I first got elected to my local union executive board in 1972. I served as an executive board member, as the vice-president of our union, as the president, as our first local union organizer, as a business representative and now as business manager. I've been a full-time officer of our union now for the last eight years.

Our local union is affiliated with the Ontario conference of sheet metal workers. We're also affiliated with the Canadian council of sheet metal workers. As well, we're affiliated with the Toronto-Central Ontario Building and Construction Trades Council, which has over 60,000 members. We're also affiliated with provincial building trades. We're affiliated with the Labour Council of Metropolitan Toronto as well. So our local union is pretty active in the labour movement in the city of Toronto.

Recently, as Brother Ward stated earlier, we have reaffiliated to the OFL and CLC. As a local union—we did not affiliate as a local union; it was through the good offices of the Ontario conference that we reaffiliated back to the OFL, the house of labour, and the CLC. Without the Ontario Sheet Metal Workers' and Roofers' Conference, I don't think we would have achieved our goal to reaffiliate to the OFL.

I have some handouts here.

**The Acting Chair:** While there's a little break there, if anyone if anyone out there wants a coffee or anything, feel free to grab it. Carry on.

**Mr Moffat:** On behalf of the 3,000 members that we have in Local Union 30, I'm here in support of Bill 80, in support of Bill 80 in its entirety, including the fifth point.

I believe that this bill is long overdue in the construction industry. Our members and many of the rank-and-file members in the province of Ontario were simply delighted with the proposed changes in the Labour Relations Act.

I believe that the bill will guarantee basic democratic rights for construction workers in the province of Ontario. I think that the bill itself will bring accountability of construction local unions to where it belongs: the dues-paying member.

One of the problems in the building trades unions is that I think the international unions have been around a long time. Our local union has been part of the Sheet Metal Workers' International, in 1994, for 100 years, so we've got a long affiliation with the Sheet Metal Workers' International.

However, over the years I think they've put the shoe on the other foot. I believe that they believe we're working for them, but they're working for us. We're the

dues-paying members. We pay the dues. That's why we're members. Our dues pay their salaries; our dues pay their wages.

I think what this bill is going to do, if it does anything, I think it's going to send a message and a signal to the internationals down in Washington that the sheet metal workers and the rank-and-file members and construction workers up here in this province are a little sick and tired of the sheet metal international union with its heavy high-handedness.

In the House on October 4, the Liberal Labour critic, Steve Mahoney, made reference to what he called or referred to as "the other side," those in favour of Bill 80. I'd like to quote, October 4, page 3215:

"Now, the Sheet Metal Workers' International: There are people on the other side of it. Local 30 of the Sheet Metal Workers' International Association is in support of Bill 80. Let's put all cards on the table, I don't have a problem with that. I don't know if they've actually gone to their rank and file, though. I don't know if they've sat down with the rank and file to understand the impact of Bill 80 and the fallout from Bill 80, whether it's mobility or whether it's amendments and changes to a constitution done so arbitrarily and in a mean-spirited way, the way this minister is doing it, I don't know if they've done that, but I think it should be stated that they've said they're supporting it"—here's the kicker—"and yet the Sheet Metal Workers' International Association is against the bill."

1630

Who is the Sheet Metal Workers' International? Who are these people who are against this bill? I'd like to tell you who these people are. These people are the anointed and the appointed international representatives who have been running around this province in opposition to Bill 80. For what reason?

I to this day do not know what authority they had, on my behalf, on behalf of my members, in this province, to run around the province in opposition of Bill 80. They work directly for the general president. As I said earlier, they are appointed by the general president. They did not, as far as I know, go to any local unions to find out what their express wishes were. I don't know why the Sheet Metal Workers' International is opposed to it.

There are a couple of labour leaders in the Sheet Metal Workers' International Association who are opposed to it, but they don't represent the wishes and the feelings of our members in this province. As was stated earlier, 10 out of 11 locals are now in favour of Bill 80 in its present form.

When someone in the House makes a public statement about the Sheet Metal Workers and mentions Local 30 in the House, wondering whether or not we're in favour, whether or not we took it to our membership, I should mention to the members of the committee that I sent a letter—it's in your possession—to the Liberal Labour critic, dated December 8, 1992—I'm assuming he had that letter in his possession—explaining the position that Local 30 took on Bill 80. I'd just like to read a couple of excerpts from the letter.

"Dear sir:

"Local Union No 30 of the Sheet Metal Workers' International Association, which represents over 3,000 sheet metal workers and roofers of the construction industry in the greater Toronto area, is delighted with the proposed changes to the Ontario Labour Relations Act.

"I am writing to ask that you do everything possible to support Bill 80. This piece of legislation will ensure that the democratic rights of building tradesmen in Ontario are respected by our international union. It is long overdue. Look at the points covered by the bill." And I covered all five points.

This letter I sent to the Liberal member, Steve Mahoney, and I closed it by saying, "This may not please those who now hold unlimited power in the US over our union, but believe me, those who live and work here in Ontario are very glad to see Bill 80. It should really be called 'A declaration of rights for Ontario construction workers,'" and I asked the Liberal government in this province to support it.

**Mr George Ward:** Opposition.

**Mr Moffat:** The opposition.

**Ms Murdock:** They wish they were.

**Mr Moffat:** I don't know whether they'll ever achieve it.

**Mr Mahoney:** Just to make a point, I think I acknowledged in my speech in the Legislature that you did support it.

**Mr Moffat:** But on page 3222, dated October 4, and I'll just reiterate what Mr Raso said, you made a statement, "I don't have any letters from proponents of Bill 80. Maybe that should tell you something," and I don't think that's true. You spent an hour and a half in the House saying things that I took offence to, my membership took offence to, that weren't true. I think I spoke to you after the building trades convention just recently held over this.

I think Mr Raso explained who was making presentations down here, and let's really examine who is in favour of Bill 80 and who isn't. I looked at the list of presenters down here and I found two or three local unions in the province of Ontario that are opposed to this Bill 80. I find seven or eight international organizations that are making presentations here, and who are they representing? They're representing the international unions. They're not representing the rank-and-file workers in this province when they're making these presentations.

The Canadian building and construction trades, Joe Maloney: He now works for the Canadian building trades department and his name was mentioned many times by the Liberal critic in the House, but if you just look at the background, he's a boilermaker. The Boilermakers' International is down here opposing Bill 80, the Canadian building trades is opposing Bill 80, and I don't know what the hell the Canadian building trades has to do running around the province of Ontario opposing the bill. We pay our per capita tax like everybody else at the Canadian building trades, and they represent the international unions. The Canadian Federation of Labour, the



CFL, James McCambly: I have no idea why he is down here making a presentation in opposition to Bill 80. So there's a select group out there that is misrepresenting itself as if it's representing all of this opposition on Bill 80.

In fact, the Liberal critic stated in a speech that 85% of the construction workers in this province are opposed to Bill 80. I'd like to know where the hell he got that figure from, I really would, because the support for Bill 80 in this province is a lot greater than the people you're listening to. That's why we're down here to make our presentation, just to set the record straight.

**The Acting Chair:** Once again I just want to caution you: If you want any interaction—and I know that at least when you first started out, you had two more people who wanted to present—you're now down to about half an hour left of your total time.

**Mr Moffat:** I'll wrap it up here soon. I've got a few more comments to make with regard to some of the interference from our Sheet Metal Workers' International, and I'd just like to say as well that I noticed two of the presenters on the list who are scheduled to make presentations on behalf of the Sheet Metal Workers. There's our Canadian director, Robert Belleville, and our international representative, Larry O'Neill. I would really like to know who they're representing. I guess I'll have to come down and find out exactly who they are representing, because I can assure you they are not representing Local 30 in opposition to Bill 80. In fact, 10 out of the 11 locals are now in favour of it.

In 1984, the sheet metal workers were on strike. It was a long strike and our Canadian director at the time came in to see if he could help settle the strike. As you know, in 1984 we were in province-wide bargaining. I guess when we're on strike and we're collecting strike pay from the international, they definitely have an interest. That's generally the reason why they show up. Anyway, we had a ratification meeting, a vote, and our Canadian director showed up at the meeting. There were something like 18,000 members to discuss an offer that we had had to see if we could end the strike.

I was president of the union at the time, and in a democratic manner I asked the members if they would like to hear from our Canadian director with respect to the strike. Someone moved a motion: "No, you'll not be allowed to speak. This is our affair. This is our business." Someone then moved a motion which, as president of our union, I had to take—that's the democratic process of the trade union movement—to have them leave the hall. That was in 1984.

1640

In 1986, at the quadrennial convention in Chicago, they amended the constitution to allow all international reps, people from the international, to be in attendance at any meeting—executive board meeting, regular meeting—without invite. Just arbitrarily, if they want to walk into their union hall, even though their members may not want them there, they could be part of your union meeting. They refer to it as the Moffat rule. I don't know why.

Just to briefly indicate exactly what happens at a quadrennial convention, if you can imagine, there are 150,000 sheet metal workers in North America who are members of the Sheet Metal Workers' International, and there are maybe 15,000 to 18,000 in Canada. We go down to the convention with 50 Canadian delegates. You can imagine, with 400 American delegates there, what chance in hell do we have with regard to fighting a per capita tax increase or making any amended changes to our international constitution? You just don't stand any chance whatsoever.

Not only that, but I guess a lot of the Americans in the internationals feel that north of border, we in the Canadian movement are a little bit more radical than the Americans. So it's very difficult to amend our constitution to reflect any sort of Canadian or local union autonomy. Our per capita taxes are \$24.50 a month. Last year we sent down over \$1 million in per capita tax moneys to the States. The service we got in return certainly wasn't worth \$1 million.

As well, you have a letter there. When I became business manager, I had been communicating with our general secretary-treasurer and we changed the logo on our letterhead to a logo that reflected what Toronto was all about. We took the sheet metal international's emblem off our letterhead and put our own logo on it. As you can see, the letter that I got back from the general secretary-treasurer was over a logo on a letter, threatening me in a directive from him that if I did not remove our local union logo off that letterhead and didn't put on the sheet metal workers', I could possibly be charged, whatever. This is the type of thing that happens.

I'm going to ask Al Budway, the business representative, just to spend a few minutes on some of the experiences he has had.

**Mr Al Budway:** Just quickly, because we're running short on time—I realize that—first of all, I've been a member of the Sheet Metal Workers' International, Local 30, since 1959. I served an apprenticeship, have been active in the union for quite a while, and have been a full-time rep since 1983, so I've got some experience.

My first experience, I guess, with the international was back in 1974 at the quadrennial convention in Miami Beach, Florida. At that time I was quite naïve about how the whole system worked. We had a basic resolution going there, asking for Canadian autonomy. That was the year the CLC had put into its constitution the Canadian standards for self-governing: the election of Canadian officers by Canadians, policies to deal with national affairs to be determined by elected Canadian officers and/or members, and Canadian-elected representatives to have authority to speak for the union in Canada.

It was a simple resolution, we thought, but after a whole week of the convention, our resolution finally came to the floor. It had been rewritten by two international reps and the general president. It was nowhere near the resolution that we had put in. At the time, we were pretty cheesed off about it. We couldn't even get copies of the resolution. We had to run around and try to get copies of it. Finally, when it hit the floor, Jack Donnelly—some of you may know his name; he was a



very well respected sheet metal worker representative for us and pushed Canadian autonomy quite a bit across the country—got up and made quite an emotional speech on how we had been bamboozled by the international and how disillusioned he was with the whole process.

I got up, being quite a new young man on the block, and made a speech. I guess I got a little heavier. I was booed. I look back on the minutes; in fact, I've got the minutes right here from that convention. I look at it now and to me it doesn't look like much. You guys, when you're in the Legislature, say a lot worse things than what I said that day, I'll tell you that. It's nowhere near what you guys get into. So you guys would probably have been strung up.

**Mr Mahoney:** I've got immunity in there too.

**Mr Budway:** Yes, you guys probably would have been strung up down at this convention.

But anyway, as I was booed quite loudly from the floor, after that I went out in the hall and some of the Americans came up to me and said, "Jeez, you've got a lot of guts." At the time I didn't realize what they were talking about. But I noticed those guys from Detroit and Chicago all need tailors, because their coats all seem to—I always wondered what the tailors are like in those places, because they have those coats that go like that. I was kind of looking around and I started realizing that even though I was from a family of 15 from Broadview and Queen and I was streetwise, I was playing in a big league here now. In fact, the general president emeritus, who is retired, the present general president who just got thrown out, came to a couple of the delegates from Toronto and said, "If we had that kid in New York City, he'd be cemented in the sidewalk tomorrow morning." I found out he meant it.

Some of the American delegates came up to me after on the QT and said, "You got a lot of—." I couldn't quite grasp what was going on, but I started seeing more and more the clear picture of how the unions run in the United States. In fact, if you ever get a chance, Steve, you should look up that Senate report on racketeering and mafia connection to the unions in New York City and you might get an idea of what I'm talking about.

Anyway, what we were trying to do was put the simple Canadian standards within our constitution. From that point, 1974 to 1980, there was constantly this harassment of trying to pull us out of the CLC. Finally, in the summer of 1980, we found out—not myself, but the delegates who went to the Canadian building trades convention—that in fact the international had withheld the per capita tax from the CLC and we were about to be thrown out. Finally, I guess a year later, in March 1981, the CLC made a decision to suspend the building trades people because the per capita had not been paid. There was no consultation with any of the local unions; this was just something done by Washington.

Again, I still maintain it goes back to that we want to elect our own people. We wanted to elect our international reps. We wanted to elect everybody, a simple democratic right that I think everybody should be able to have.

A lot of us by this time were quite involved with Metro labour councils, the Ontario Federation of Labour and so on. John Donaldson, who some of you may know, is the construction representative at the Workers' Health and Safety Centre now. He went through the CLC and asked if they could help us keep the building trades within the CLC. So along with him and John Cartwright, who's now business manager of the Toronto-Central Ontario Building and Construction Trade Council; Chris Thurrott, who happens to be present here and who is a full-time rep of the building trades now; Terry Lewis, over here in the back, who was representing from Hamilton and who came in front of the committee on Monday; and one other person, Jim Bentley, who started off with us, we went out on the road to try to convince the local unions and get the information out to the members on what actually was happening.

Jim Bentley only spent two days with us. He had just recently retired. He was very active; in fact, he was an executive board member of the Metro labour council, very active in the OFL and very, very active in the boycott against grapes. In fact, he spent a lot of time with Cesar Chavez in California. He had decided to go on the road with us. He got a call the night he was supposed to go to Thunder Bay that if he went on the road with us to fight to stay within the CLC, his pension would be—how do they put it? There would be administrative problems with his pension fund. In other words, the cheques would be late or wouldn't get there at all.

He was devastated. I remember very distinctly how devastated he was. There's a guy who spent most of his life fighting for unionism, and here are the hard-nosed international people coming down on him. He was from the United States, by the way. He's dead now but I'm sure a lot of people remember his name.

That is the kind of thing that went on. Anyway, for about a month we went on the road and tried to organize and tried to get people to stay within the CLC.

The threats and intimidation started coming down. I was threatened many a time as being a traitor: intimidations, all kinds of threats, openly told that I was going to be charged for promoting a dual organization. Eventually what happened, and I didn't find this out until quite a while after, was there were some backroom meetings, and what the CLC had decided was that it was better than putting our heads on the chopping blocks to get us out of there and try to fight this thing another way. Some people did stay in the fight for a few more months, but unfortunately the split between the CLC and the building trades happened. Just recently, as you heard, we've got back in again. That's the type of thing I can relate to.

But there's another thing I want to just quickly mention in regard to agreements. In 1984, there was an agreement that was imposed on us by the international unions, a maintenance agreement with Hydro, the re-tubing. You heard about the accident at Ontario Hydro, Pickering, and there was a big re-tubing program. With that, there was a need for a so-called maintenance agreement.

We were opposed to it because it was taking a 10% cut in our pays. It was a continental week, where you would

work five days a week, whether it would be Friday till whatever, and you wouldn't have your weekends. There was time and a half for overtime and there were a lot of concessionary things within this maintenance agreement. We were opposed to it, the ironworkers were opposed to it, the electricians were opposed to it, and we fought that.

One day I had to go out to the Pickering Hydro. Hydro waves this agreement in front of me: "Well, there it is. It's signed, Budway." "What do you mean, it's signed? We're not signing it." "Your Canadian director flew in here, signed it and flew back out again."

1650

We didn't even know it was signed; our membership didn't know; the people working on the project didn't know. Now they were going to go into hot areas, contaminated areas, to work at 10% less in worse conditions than they were already in. This is the type of thing at the international. I hope these stories will help you realize that we need Bill 80.

**The Acting Chair:** I guess I should ask, are there any more presenters?

**Mr Raso:** We have one.

**The Acting Chair:** Okay, because you've got 10 minutes. Could you state your name for Hansard.

**Mr Tim Fenton:** Good afternoon, ladies and gentlemen. My name's Tim Fenton. I'm the business manager of Local 397, Sheet Metal Workers in Thunder Bay. I'm here today to talk about one of the points, section 138.3, the geographic jurisdiction. Most of this has been taken from notes and correspondence. I wasn't the business manager at the time this took place. I've been with the local union only about three years, but quite a few things have happened.

Back in 1946, the geographic jurisdiction of our local was determined. It included the districts of Thunder Bay, Rainy River, Kenora and Cochrane. During a convention in 1963, the boundaries were readjusted. It gave Thunder Bay the northeasterly portion of the district of Cochrane.

During a recessionary period back in 1983, the Sudbury local made a request from the general president in Washington to review the borderlines of Sudbury and the Thunder Bay locals. In this request, he instructed the international rep, in the following month, to make an investigation as to whether or not this would be an appropriate change of geographic jurisdiction. The international rep did come down—that was approximately six to seven weeks later—and it was at that time we were finally notified that this was going to be a change.

It came about because there was a job in a northern region called Detour Lake. Detour Lake was a very small mine site. It probably would have supplied work for seven or eight men for three or four months. It wasn't a big deal. Perhaps the local union would have been able to make some amendments to our geographic area for one project. But as it turned out, the international rep made a report to the general president in Washington and in July the general president in Washington decided to change our boundary lines, which altered approximately 60,000 square miles of territory for our local union. There was quite a bit of work that had gone on in there. We had

served the area for about 35 years and we had lost a substantial amount of work. It all happened because they just wanted one small job.

It required our then business manager to go to Florida to appeal our case to the general executive council. The general executive council said it could not rule on it because the general president had the only authority on geographic jurisdiction and that it was up to him to make any decisions on territory.

During this time, approximately six months, we lost some work—it wasn't a great amount—during the recession. But then, again, we were experiencing about 45% unemployment, so it impacted us quite a bit. The general president later reversed his decision and gave us back the jurisdiction. Unfortunately, I didn't make enough maps to go around today. If Mr Raso could circulate what's there, I don't know if it'll be any help.

We're talking about a very small project that started the wheels turning and ended up carving out 60,000 square miles of jurisdiction. It's a substantial amount. It created a lot of hardship for our members and a lot of resentment. That's why I'm here today. They've instructed me to come here and tell our story about geographic territory and how it can be altered by the stroke of a pen. That's why I ask that all four points of the bill be left intact. I wish we could get the fifth one. I feel perhaps some daggers in my back right now, but we'll find out when we leave.

**Mr Mahoney:** Me too.

**Mr Fenton:** That's about all I have to say about geographic jurisdiction. I'm sorry there were not enough maps to go around.

**The Acting Chair:** I take it this is the end of your comments, then, as a group. We have a minute for each caucus.

**Interjection:** Yes, but we didn't start till quarter to 4.

**The Acting Chair:** I know that it's a bit short of the full hour and a half. I'll give everybody one quick question. The reality is that we have a vote at quarter to 6. We have two more presenters who were to run till 6 o'clock. So everybody's being cut. I will allow one question from each caucus. Mr Mahoney was the first one up.

**Mr Mahoney:** Well—

**The Acting Chair:** Quickly, please, Mr Mahoney.

**Mr Mahoney:** I couldn't possibly do justice. Let me first of all thank you for reading all my Hansards; I'm impressed. I should get my constituents to do the same thing.

*Interjections.*

**Mr Mahoney:** They'd all fall asleep, right?

I guess there's not much point in even asking a question—I've got a long list of them—but let me just say to you first of all that I don't consider it anywhere near bordering on treason for you or anybody else to support or not support a bill. I think that this is the democratic process and that we have a lot of questions that relate more to the structure within the legislation than they do to the specific problems you've outlined. In fact,



one of the things I've said from day one is that if we could have some of the problems out on the table, maybe we could talk about ways to solve them without using, frankly, what I consider to be a shotgun to kill a fly. I don't like that metaphor, because I know you consider these things more significant than a fly, and I appreciate that. But I just say that I think it's overkill.

I can't really deal with some of the problems that you refer to. Mr Ward's accusations about girlfriends and getting money and all of that kind of stuff—I really don't know the first thing about that kind of thing. I can't really deal with them. But on many of the issues of boundary changes, the last one, these are the kinds of things that if there are problems, if there is heavy-handedness, I can tell you that my party would support finding a way to resolve them. We do not support, under any conditions, any government coming in arbitrarily, unilaterally, adjusting duly passed constitutions in democratic bodies. That's a philosophy I simply will not support happening.

Just as I see the conference having a position where I presume there are rules and regulations, you may face the day one time down the road when the government may decide, once it has adjusted the constitutions to deal with either real or perceived problems from international unions, it wants to do it with your conference or maybe with national unions, or maybe it just thinks it knows best. I reject that. I think there are many, many questions that you've raised.

I suppose I could take exception to some of the comments in relationship to my comments. Let me just say that I did acknowledge that your Local 30 is opposed to it and have no problem with that. I think that's what this process is all about. But in the time of a minute, I have no illusions that I'm going to change your minds about anything. I just tell you that—

1700

**Interjection:** In support.

**Mr Mahoney:** In support. I apologize; I meant in support. I acknowledge that you're in support of the bill, but I couldn't go through, in the time that's allotted, and get any questions. But I'd be happy to do that with you privately, if you want to.

**Mr George Ward:** Just on that, you happened to mention the conference. The government in fact indeed did do something similar to that, and I believe it was under the Peterson government. They took the voting structure that's in the Ontario conference's bylaws on ratification of provincial collective agreements and put it in the Labour Relations Act as the proper procedure for voting.

So don't say that all of a sudden they don't do things; they do do things. When they see things, they do interfere, if you want to call it "interference" by governments. When they saw something that needed to be fixed, your government, I guess at the time, and a credit to it, saw the proper procedure, which was in the conference bylaws, on the proper way to ratify a collective agreement. They went for it and they changed the legislation to show the procedure, that they be locked in a sealed

box and the sealed boxes from all over the province of Ontario come to a central area and be counted.

I believe it was the Peterson government that took that out of our bylaws and put it in. So from time to time there is some fine tuning needed as to how unions operate. I don't think anybody can be opposed to any kind of fine tuning.

**Mr Mahoney:** Can I just be clear that from day one we've said that if there are problems that need resolving, we'll sit down and talk about those particular problems. We never had a problem with that.

**Mr Bill Murdoch (Grey-Owen Sound):** I'll only be a second. I just want to say I appreciate you people coming here and telling us the problems you've had. The only problem I have, again something that Steve's talking about, is government interference when you are an elected body. I would have hoped you could have settled it. With what you've told us today, you're having a hard time doing that, so I can see where I can help support this bill. I can only speak for myself; I can't speak for the PC Party on that, because there are different concerns.

I know how you feel about this. That's why I ran to get elected, because I think local autonomy is very important and I always had trouble with Queen's Park trying to tell us in our area what to do. It's sort of the same thing. I do sympathize with you, and hopefully I can support this bill.

As I say, I have trouble supporting it when it's coming from this government, because of some of the high-handed things it does, and I don't agree with it. But in this case maybe they have it on track for a change.

**The Acting Chair:** Mr Ward, your response.

**Mr George Ward:** Just again on interference, if you want to look at the legislation which the then minister, Bette Stephenson, under a Conservative government, brought in for legislative provincial bargaining in 1978, talk about altering the jurisdictions and the way local unions operated in the province of Ontario.

I know in our own local we negotiated three distinct different areas. We negotiated separate agreements from one contractor to the other. Your government saw it as a bad idea of leapfrogging that continually caused dissension within the construction industry, and yes, the Conservatives under Bette Stephenson did interfere in the bargaining process and put in provincial bargaining. Interfering into how unions operate is no new game here; it happens all the time.

**Mr Murdoch:** All I can say is that—

**The Acting Chair:** Thank you, Mr Ward. Mr Murdoch, you had your time. Ms Murdock.

**Mr George Ward:** I think she retired very successfully; I don't think she was defeated.

**Ms Murdock:** My question actually is to Mr Raso on a comment he made, but I suppose that any one of you could answer. It's in relation to the support for the four points, and the one point in terms of jurisdiction, geographical-sectoral jurisdiction, being determined upon application to the OLRB by the international. That's the way the potential amendment reads now.



There has been some discussion about that rather than having every single intervention or geographical jurisdictional change coming from an application by the international to the OLRB, it would be done by the local itself instead, so that it would be complaint-driven rather than having it done each and every time. "We need the jurisdictional clause the way it exists" is what you said. If that was changed, would your position still be the same?

**Mr Raso:** The first point is that we like it the way it is because, as I think someone said, jurisdiction is established over a long period. We're talking about long-established jurisdictions. It shouldn't be easily changed.

In terms of the question of who goes to the board, we're not opposed to amending it to state that it will be complaint-driven, that the local union will make the application. However, we think it's imperative that if that is going to be the case, the international must provide, I don't know, 30 days' notice to the local union of its intention to alter.

What we think is absolutely necessary is that the application to the board go before the altering of the jurisdiction occurs, because jurisdiction is a big practical deal. We're not just talking about changing things on paper. It affects human beings. It affects workers on sites.

**Ms Murdock:** I'm very aware of that, as evidenced in Sudbury, yes.

**The Acting Chair:** Thank you, Ms Murdock. Perhaps you can just finish.

**Mr Raso:** If you allow a jurisdiction to change and then you make an application and it's changed back, there's going to be a lot of chaos and instability out in the field.

For example, you could have a job site on Monday with 50 people working there and the international literally and unilaterally sends a letter or a fax to a local and says: "That's no longer your work. Get your people off." They go off, you get another group of workers go on to that site, the local goes to the board, makes an application to change and the local wins. Those 50 people are now ordered off the site, and the original 50 people have to go back on. That's chaotic and it's not in the interests of the union, nor is it in the interests of the employer, because they're not going to know what's going on. All they know is that they want sheet metal workers onsite and there's a fight going on about which 50 people or how many should be there. In the interest of stability, it should be that the international has to provide notice first and then go to the board.

**The Acting Chair:** Thank you, Mr Raso. Thank you to all of the people from the Sheet Metal Workers. You've managed to grab your whole hour anyway, even though I tried to squeeze a bit of time out of you. Thank you for coming before us.

INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS,  
LOCAL UNION 353

**The Acting Chair:** Perhaps at this time we could have the International Brotherhood of Electrical Workers, Local 353, please.

Can we have some order, please, in the room. Good afternoon. I welcome you to the committee. Could you, for Hansard's purpose, introduce yourself and the person with you.

**Mr Joe Fashion:** My name is Joe Fashion and this is one of my assistants, Bill Robinson. The reason for this big brochure is to counter international vice-president Woods's three-ring binder that he provided last week. We felt we needed to have as much in front of the committee.

*Interjections.*

**The Acting Chair:** Could I ask the members to please keep it down. At your leisure, sir.

**Mr Fashion:** Thank you very much.

**The Acting Chair:** Try to remember that we have another group to present and there will be a vote at quarter to 5, at which time we will have to call it—

**Ms Murdock:** At quarter to 6.

**The Acting Chair:** Or at quarter to 6; I keep trying to get out early, but nobody's going to let me.

1710

**Mr Fashion:** I will try to be as fast as I can, but we do have an awful lot of things to talk about, so I hope the committee will be patient.

My name is Joe Fashion. I am the elected business manager of IBEW, Local 353. Our local has 6,000 members and our jurisdiction is from Oakville to Pickering and north to Lake Simcoe. I've brought with me today some of our local union officers and members. Maybe you'd like to stand up, 353. Come on.

It's too bad Mr Mahoney's not here, but these are local people, rank-and-file people who are in favour of Bill 80.

I'm an avid supporter of our international union, the International Brotherhood of Electrical Workers. I served my apprenticeship in the IBEW, Local 353, and I have been a member for 35 years, I've been the elected business manager for the last six and a half years and I have recently been re-elected for a third three-year term. I'm proud to be a member of the IBEW and I hope to be a member until the day I die.

However, there has been evidence of abuse of power by our international office towards myself and other elected officers and members of our local and indeed many other local unions. The need for Bill 80 has never been more apparent than it is today. It is my sad duty to come here today and publicly illustrate the need for legislation to protect the elected officers and members and local union autonomy.

I say it is a sad duty because the actions of a few high officials of the IBEW and their continual abuse of power have allowed them to interpret the constitution of the IBEW to suit their own purposes. By so doing, they have maligning the character and reputation of our membership and their duly elected officers.

There have been allegations made before this committee by our international vice-president, Ken Woods, which cannot go unanswered. Let's be specific. The Greenbelt gas pumping station: International vice-president Woods sent me a letter dated December 5, 1988, in which he refers to problems on the job site, and he

informed our local that the job site was under international supervision and that his representative, Mackenzie, had been assigned to ensure that the supervision was carried out.

This was the first time Local 353 had received any correspondence from the international office or had any discussion whatsoever with the international office concerning this job site. I would like to refer to tab 1, page 1, which contains our correspondence with the international.

In August 1988, the Toronto United Association, Local 46, pipefitters, lost their jurisdiction over this job site to the UA Kitchener local. The contractor, Nicholls-Radtke, is based in the Kitchener area and wanted to use their employees from Kitchener to work on this project. The project was primarily pipefitters' work and because of this, Local 353 members did not arrive on the site until September 1988. Yet in his letter to the international president, he implies that Local 353 electricians have caused the project to be three months behind schedule. We had not even been on the job site for three months, yet we were to blame.

The supervision on the job site was so incompetent that they were not using proper explosion-proof fittings and our members reported this to the Ontario Hydro inspection office, as it is their duty and obligation as licensed tradesmen to protect public safety. The contractor wanted to use his employees from Kitchener to do the work, which rightfully belongs to our members.

The ICI provincial construction agreement protects the work in a local union's jurisdiction by only allowing an electrical contractor to bring in one worker from another local, and all the other workers must be hired from the local union, in this case, Local 353.

At this point, I want to bring to your attention that IVP Woods's international representative, Mackenzie, and company representative, Eric Hardman, are members of Local 804 Kitchener, which benefited by taking the work away from Local 353. Further, the owner of Nicholls-Radtke, Bill Nicholls, is also from the Kitchener area.

We were astounded and insulted to find out from IVP Woods's presentation before this committee that the basis for his actions were as the result of Mackenzie's report dated December 3, 1988, and a weekend conversation with the owner, Bill Nicholls. You will note that Mackenzie's report is based on allegations contained in an alleged daily journal that was kept by the company representative, Eric Hardman. That's at tab 2, page 1. If you will turn to that page, you will see IVP Woods accepts the word of a company official and never consults us.

Neither the members on the job site nor the elected officers of the local union were ever given the opportunity to respond to these allegations before the IVP took the job site away from our members.

The company's repeated violation of our collective agreement forced our local union to file grievances at the Ontario Labour Relations Board for lost wages and benefits and the firing of three union stewards and health and safety representatives. International vice-president

Ken Woods, in his presentation to the committee, failed to mention that subsequent to his removing the job site from our jurisdiction, Nicholls-Radtke had to pay damages to Local Union 353 for the violations of the collective agreement. In fact, Woods's actions interfered with the due process at the labour board and jeopardized our grievances which were properly before the board.

Bill 80 will prevent the international office from interfering in local union autonomy and allow elected officers to fulfil their legal responsibility to represent their members to the best of their ability. If this was an isolated case, the need for legislation would not be so compelling, but unfortunately, the international office's continual interference in local union affairs makes it difficult for local unions to function in accordance with the Labour Relations Act.

As recently as June 29, 1993, international vice-president Woods sent our local a faxed letter—see tab 3. You will note that this directive gave our local union until 5 pm of that day to respond to the contractor's needs or the local union would lose its jurisdiction over the projects in question. He even threatened me that he would bring in workers from Quebec to replace our members onsite, and reminded me what he did to us on the Greenbelt site. This is just another example of the high-handed actions of our international office.

Tab 3, page 3, is our response to the IVP's letter. You will note it is dated the same day as his letter. The contractor in question was continually violating the collective agreement and provincial health and safety regulations. Consequently, we were forced to file grievances after they endangered our members' safety and fired the Local 353 health and safety rep who had phoned the Ministry of Labour.

Subsequent to this, the contractor in question had to pay damages to our local for the violations of our agreement, and the construction health and safety inspector shut down one of these projects until the trenches were made safe enough for our members to work in them. Bill 80 will help prevent these international office threats and intimidation.

In IVP Woods's presentation, he has submitted a letter dated April 20, 1978, from International vice-president Ken Rose to international president Pillard, which is in tab 4 in our presentation. Please turn to page 5 at tab 4. This is the first time we have ever seen this letter which was provided by Ken Woods in his presentation a week ago. It's the first time we've seen this letter written 15 years ago. Along with a number of unfounded allegations, the real truth behind the trusteeship over our local is seen here on page 5.

1720

I quote from his letter, "I am concerned as to the possibility that the forthcoming election of LU 353 may very well see the dissidents in complete control of the local union." As I say, that's in the international vice-president's letter on page 5. We've highlighted it so that you don't have to spend too much time looking for it.

We have always maintained that the trusteeship was put in place to prevent the international's appointed



business manager from facing the membership at the election. Now IVP Woods has given all of us a document which shows the smoking gun. Any member who dares to disagree or shows some individuality is branded a dissident or a communist. Referring to International vice-president Rose's letter, on page 3 of the same letter, you'll see that he, in his letter to international president Pillard, has put in it that there are some radicals, and then, in brackets, "some say communist."

In May 1978, nominations were held at the regular Local 353 union meeting in accordance with our bylaws. A business agent, Bill Jacks, and executive board officer Robert Gullins stood for the office of business manager. William Robinson, an executive board officer, stood for financial secretary. These were two full-time positions within our local union. The very next day Bill Jacks was fired by Bill Hardy, the incumbent and internationally appointed business manager. The following week Local 353 was put into trusteeship and Robinson, Gullins and others were suspended from office and elections were cancelled.

The main reasons given for the trusteeship were unauthorized expenditures of local union funds on gifts to pensioners and Christmas parties for members' children and the failure of the local union to get international authorization for a legal strike a year earlier, in June 1977.

The interesting thing to note is that the part-time officers, namely, the president and executive board, were immediately removed from office, while the full-time, paid officers, business manager and financial secretary, were left in office to carry on as they had in the past. These same full-time officers had the responsibility and authority to manage the finances of the local and get authorization from the international office for a legal strike.

There is something really lacking in the laws then and still today concerning trusteeship that Bill 80 addresses. Not only was Local 353 allowed to be legally put into trusteeship without any obligation on the part of the international to justify its action before an impartial tribunal such as the labour board, but it was allowed to continue the trusteeship for a year.

Then they made application before the labour board to continue the trusteeship. Fortunately, some of our members hired a lawyer and intervened at the labour board. The international reluctantly withdrew its application because it knew it did not have just cause. They were forced to end the trusteeship, but before they did that they unilaterally appointed new officers and changed the local union bylaws.

These new bylaws suspended elections for another two years and changed the election process to a mail-in vote. The membership responded by passing new bylaws which would return the local election to a poll vote with an absentee mail-in provision. International vice-president Rose refused to approve this bylaw even though he had approved it prior to the trusteeship and it was in compliance with the IBEW constitution.

Over the subsequent years, Local 353 passed numerous bylaws which were identical to other IBEW locals in the

province. The International vice-president, Ken Rose, still refused to approve the bylaws. It took from 1978 to 1987, after many attempts, appeals and letters to legal counsel, until the bylaws were finally approved—see tab 5. You can see that the trusteeship was legal for one year, but it took nine years to get the bylaws and officers of the local union back in place.

This should illustrate the need for Bill 80, which would give local unions some autonomy and prevent the international office from directly or indirectly interfering with local union autonomy.

You will note in the IBEW constitution the enormous powers of the international president and his vice-presidents regarding charges and trials. The allegations in IVP Rose's letter dated April 20, 1978, which was sent to International President Pillard—tab 4—are the same allegations that are contained in charges laid against the former president and executive board members of Local 353—see tab 8.

To summarize, International vice-president Rose sends a letter with allegations supporting trusteeship to International president Pillard. International vice-president Rose then assigns his representative, Moore, to take charge of the local and investigate his own charges. Moore then lays the very same charges against the part-time officers. International vice-president Rose then assigns another one of his representatives, R. McWillie, to hear the charges. At the subsequent trials, a third international representative, Swift, testifies against the accused. Then IVP Rose makes the final ruling, convicting the members on his own charges. The appeal of these charges then goes to International President Pillard, who had already ruled that the officers were guilty by placing the local into trusteeship. This is an obvious violation of the laws of natural justice. Bill 80 would help alleviate this abuse.

**The Acting Chair:** If I might interject at this particular moment, you've been approximately 20 minutes on this. As I said, I'm going to have to cut you off quite soon. If you could quickly sum up, we could have a couple of questions.

**Mr Fashion:** I believe I've got four pages, and I'll go as fast as I can.

In the United States, there's legislation which attempts to give local unions a bill of rights. This legislation is known as the Landrum-Griffin Act, and it was passed in 1959. Yet the courts in Ontario will not hear cases concerning internal union problems. We have heard statements by the international unions that there is no need for Bill 80, because the union constitution and appeal processes protect members from abuse of power. We have submitted documents—tab 7—which clearly illustrate the need for Bill 80.

An American IBEW member, Dan Boswell, was removed from office, fined \$1,500 and banned from any candidacy for six years for criticizing local union officials. Mr Boswell filed suit under the Landrum-Griffin legislation, won his court case and was awarded damages.

During the trial, union attorneys claimed that their union was a model of democracy, that the Boswell case was an isolated incident. Even if his complaint was



justified, they argued, it would be unfair to compel the union to revise its constitution because of a single disciplinary action, even if it was in error. To test the claim, Judge Lacey ordered the union to open its disciplinary records for inspection and gave Boswell 10 days in which to investigate the files. Under extreme time pressure, the Association for Union Democracy recruited volunteer lawyers and law students to examine documents in most IBEW districts all over the US and Canada. The documents proved that, in some 750 cases at least, IBEW members had suffered penalties over a 10-year period on the basis of illegal union restrictions on free speech.

Interestingly enough, some of our former officers' cases could have been part of that investigation. William Robinson was charged and convicted by IP Rose for writing an article, entitled *Unanswered Questions* by the International Office, that was submitted to the editorial board of the local union newsletter—see tab 6. Let's look at these questions at tab 6 that he wanted answered:

1730

"Why was the business manager of our local removed from office?"

"Why was the former business manager who lost a democratic election appointed as the new business manager?"

"Why did the international office order the membership back to work when there were only four working days to go before the scheduled ratification vote?"

"Why did the international insist on having a mail-in ballot even though the executive board and the membership were opposed to it?"

"Why did the international vice-president not come to the union meeting to explain his reasons rather than sending an assistant who antagonized the membership?"

"Why did the international refuse to allow the executive board to call a special meeting as it is their right under the constitution?"

"What ever happened to local union autonomy?"

"As an officer of Local 353, I would appreciate an answer from the IVP to these questions at a union meeting in the near future."

Bill Robinson was charged and convicted for that.

Robert Gullins and William Robinson were charged by the international for merely attending an ad hoc committee meeting that was opposed to provincial bargaining. Their so-called crime was to attend a meeting to discuss upcoming provincial legislation—see tab 6.

If Bill 80 is not retroactive to the date it was first introduced, we could be charged for appearing before this committee and expressing a view that is different from the international's. In fact, if Bill 80 does not get passed or is watered down, we expect that the international will charge us or find some way of punishing us or our membership. They will say the charges have nothing to do with Bill 80. There will be some other trumped-up charges similar to the ones that have been laid in the past—see tab 6, page 3.

**The Acting Chair:** I'm going to have to ask you to—

**Mr Fashion:** I've got a page and a half.

**The Acting Chair:** Well, very quickly.

**Mr Fashion:** I don't know if the members of this committee can appreciate what goes through a victim's mind when he works hard for his local union, only to be rewarded with malicious charges which malign his character and destroy his credibility and reputation with his peers. I can tell you today that I don't wish this fate on anyone. I cannot describe to you the pain and torment this causes an individual. I've been through the process, and it took me five years to clear my name. They tried every intimidation tactic to get me to drop my appeal. I can relate to the anguish of my fellow members and officers who have gone through this ordeal. I hope our efforts here today will convince this committee to put an end to this type of persecution by ensuring Bill 80 is strengthened, not watered down.

Finally, I want to address the disaffiliation clause in the bill. While I am not in favour of disaffiliation, I believe the clause would have protected other unions that have had their union dues increased drastically because no one would dare question what their IP was doing travelling around the world.

The internationals make a case for the need for the trusteeships, and I concede that in some cases the need exists; I guess, for example, the example the other night where somebody had stolen \$1.5 million. There surely should be a trusteeship over something like that, but there should be a just-cause hearing.

I want to thank the committee for the opportunity to appear here today.

**Mr Bill Robinson:** I just wanted to clarify for the record that there's some misinformation being stated here by individuals in front of this committee.

First, Local 353's 6,000 members and Local 1788's 1,400 members represent one half of the construction members of the IBEW in the province. The Toronto and central building trades council affiliates represent 60,000 construction workers in Ontario. That is a majority of unionized construction workers in the province who have supported Bill 80.

Second, the Labour Relations Act, which has been amended by both Liberal and Conservative governments, overrides the authority of all construction union constitutions in the province. For example, a trusteeship cannot continue beyond a year without justification at the labour board. Provincial bargaining also overrides all constitutions because the IP or IVP cannot have other agreements for this type of work on construction, yet the constitution gives them authority to do so—page 25 of our constitution. Also, 149a of the act specifically tells unions who can vote on the contract. Non-union members can vote. The act is a complete regulation of constitutions, containing hundreds of rules and regulations concerning the rights to strike, organizing, union membership, grievances, cease-and-desist orders, decertifications, trade jurisdiction, grievances and collective bargaining.

The act presently regulates union constitutions and local bylaws, and it works in parallel with these other documents. So the argument that the bill is some kind of precedent in this regard is simply not true. I hope that we

have put this myth to an end. All union constitutions are subject to the laws of the land in Canada and the United States of America and any other countries in the world in which the unions operate.

The broad powers of the international president force us to belong to organizations and pay our members' money to the CFL. I can assure you that Local 353's 6,000 members would not pay another dollar to Mr McCambly's organization if we had a choice. So there is little doubt why he is down here complaining about Bill 80. He wants our money, yet he does not speak for us or represent us in any way.

Bill 80, simply put, is all about sharing power with the internationals and protecting local union autonomy. If Bill 80 is passed, the locals and the internationals will have a more harmonious relationship because locals will be on a more level playing field and compromises and consultation will be a reality.

**The Acting Chair:** I can't allow any questions. The other presenter is going to end up with 10 minutes out of this deal.

**Mr Mahoney:** Could we have a vote? I'd suggest we just hear the next presenter.

**The Acting Chair:** That's what we're going to do. Thank you very much for your presentation.

LABORERS' INTERNATIONAL UNION  
OF NORTH AMERICA, LOCAL 183

**The Acting Chair:** Could the Laborers' International Union of North America, Local 183, please come forward. Could you start your presentation.

**Mr Keith Cooper:** Right away?

**The Acting Chair:** ASAP, please. Could we also have some order in the room. Keep it down, please.

At your leisure, sir; well, no, not quite that relaxed.

**Mr Keith Cooper:** Not at my leisure? Speed it up.

**The Acting Chair:** Yes, no leisure.

**Mr Keith Cooper:** A quick leisure.

**The Acting Chair:** Can we have some quiet in the room, please.

**Mr Keith Cooper:** Good afternoon—I guess it's evening by now—honourable members. I'm appearing on behalf of the Laborers' International Union of North America, Local 183. With me today is Brother Tony Candiano on behalf of Michael J. Reilly, business manager; Tony Dionisio, the president; and Rocco Lotito, secretary-treasurer of Local 183.

We would first like to congratulate Premier Rae's government on having the foresight and understanding to tackle this proposed amendment to the Labour Relations Act of Ontario. We appreciate the busy agenda which you have set for yourselves and your commitment to a thorough examination of this particular piece of legislation and of the need for it.

We would like to point out respectfully to the loyal members of the opposition that this particular piece of legislation should not be considered anti-business. As I'm sure you've noticed, there have been no appearances by employers opposing this bill, and rightly so. The four

major points which Local 183 supports will have no impact on the business community and are simply extended to create uniformity and equity throughout the various labour organizations in the province.

The Laborers' International Union of North America, Local 183, has a long and involved history in this city and its surrounding areas and has provided considerable assistance to our members, the employers with which we deal, various governments as well as the community itself.

Presently, Local 183 has some 11,000 members working with many different skills in the construction building trades in Toronto. We offer a state-of-the-art training facility, a modern, fully staffed dental clinic, a prepaid legal clinic and a social services department geared to helping our members adjust to injury and unemployment. Additionally, we sponsor non-profit and cooperative housing ventures which provide both employment and cost-effective shelter for thousands. In January, we will be opening a soft-tissue rehabilitation clinic to better assist our members in receiving treatment for injuries commonly found in our industry. All of these endeavours are operated under joint management-labour boards, with the various trustees devoting a great deal of time to their successful operation.

Unfortunately, some of our brethren in labour do not enjoy the same working relationship with their international unions and various trustees as we do at Local 183. Accordingly, Bill 80 is a necessary legislative step to ensure that some of these locals have their rights and interests protected with fairness and equity. It would be foolish to weaken or dilute the bill as, without the safeguards which will be established once this piece of legislation becomes law, many unions would realize no benefit at all from these amendments.

**1740**

With respect to section 138.2, to which I draw your attention, these provisions are necessary to ensure uniform collective bargaining rights for all employees affected by a particular collective agreement.

Turning to the second major point of this legislation, I would like to discuss section 138.3. The constitutions of many major international unions allow the union's general president to change a Canadian local's jurisdiction overnight and without any legitimate reasons whatsoever.

The crucial elements to this particular section are, firstly, a provision for just cause. Although we commonly associate the principle of just cause with matters pertaining to discharge, there is clear relevance to the unilateral altering of a local union's jurisdiction. Just as no persons should be dismissed from their employment without good reason, no local should have its rights ignored without justice being served. Furthermore, subsection 138.3(2) should be altered to allow for an application to be made by the local trade union in the event its jurisdiction has been or will be altered by its parent.

These provisions simply extend the concept of fairness and equity throughout the system while allowing for all factors, such as the union's constitution, the local's ability



and the wishes of the local's membership to be taken into consideration by an independent board.

The spirit of just cause should be, and is, continued in section 138.5 of the bill. Once again the particular wording of the constitutions of many international unions allows for unilateral action to be taken by the general executive board without the necessary requirements common law and common sense would require.

Once again, should there be good reason or reasons which may be justified before an independent panel, justice is served and the membership's interest protected by this legislation. However, should there be an absence of reason, the membership is still entitled to protection of their rights. This section provides for that two-way protection necessary to promote and ensure fairness. As a simple matter of semantics, we would suggest that subsection (3) have the phrase "must first consider" removed from within the context of the section. As the board would not be bound by the international's constitution as the section is now worded, this phrase is simply unnecessary.

The fourth and final point which we would like to address is section 138.7. With our country's present dilemma in regard to the viability of our social safety net and the increased costs on our tax dollars, employment benefit plans, which may include everything from major medical to pension plans, are becoming increasingly important to the average worker.

Additionally, numerous governments, think tanks and financial analysts have opined that well-funded pension plans may provide considerable funding for all types of development, thereby providing further employment, economic growth and an improved business climate, not to mention the relief to governments and taxpayers who must ultimately find funding for certain developments.

Accordingly, the members, and by extension their locals, need the ability and representation to make solid and well-planned choices on how their plans are governed and how their funds are invested. Just as any major corporation provides representation proportionate to the shareholder's interest in that company, so should a local and its membership be accorded the same rights. If I may be so finicky as to point out that at the conclusion of subsection 7 the words "by employers" be added to fully and accurately define the terms set out before, I will close our submission on the technical aspects of the proposed Bill 80.

To conclude our report to the honourable members, I wish to reiterate that the underlying purpose of this legislation is to introduce and promote fairness and equity. None of the proposals being made should be construed as an attempt to gain power or wealth. Rather, we are merely interested in ensuring that common rights accorded citizens, private, public and corporate, be extended to our brothers and sisters in the construction unions.

**The Acting Chair:** I thank you for your presentation. What we can do is we will start going around, but should the bells ring for this vote we will have to call the hearings for today. I will start this time with Mr Mahoney.

**Mr Mahoney:** I guess we don't know how much time we have.

Do you have any concerns about international work in light of Bill 80? First of all, Bill 80 is passing. It's nice that everyone is going to spend all this time addressing opposition concerns and remarks, but the reality is that they've got the guns.

*Applause.*

**Mr Mahoney:** You guys can all applaud, because they're going to pass the bill. As a result of that, do you have any concerns after it passes about the ability of Ontario workers to get work in the United States?

**Interjection:** No.

**Mr Mahoney:** I'm asking the gentleman, if you don't mind.

**Mr Keith Cooper:** At this point in time, I think it's difficult enough for our workers to find employment in Canada. With the oncoming NAFTA and other such free trade agreements in the works, I think at this point in time our interests should be to protect our members' rights in Canada. I don't think we need to be concerned with the American economy or finding work in the American economy.

**Mr Mahoney:** I'm not concerned with the American economy; I'm concerned about the potential mobility of workers in the construction industry. I'm not concerned about NAFTA in regard to this. Forget the States; talk about Manitoba. Do you have any concerns about the ability of an Ontario construction worker to work in another province, for example, be it on a megaproject or perhaps just a residential project in Winnipeg? I'm thinking of a worker in Kenora. I just want to know if you have any concerns.

**Mr Keith Cooper:** The short answer to that would be no.

**Mr Mahoney:** Can you tell me if there's any legitimacy to concerns about different rules in different jurisdictions with regard to labour mobility?

**Mr Keith Cooper:** Which jurisdictions?

**Mr Mahoney:** Any jurisdiction. If Ontario unions have different rules and regulations or you escalate a war with the internationals in some way, are there any concerns? Surely to God you don't think that Bill 80's going to solve all the problems of the world and all of sudden everybody's going to have work on their plate. I don't think anybody thinks that. In fact, I don't think Bill 80 addresses work for anybody, under any circumstances.

My concern is the relationship in the broader labour movement. Do you see any potential impact if a union in Manitoba works under different rules? We've seen the problem between Quebec and Ontario, and hopefully that'll be solved in the not-too-distant future, but I'm just asking if there are concerns about that relationship in other provinces.

**Mr Keith Cooper:** Well, no. The Quebec-Ontario situation is more of a provincial government issue rather than a labour issue, so I don't think it has any relevance. As for the mobility of workers from one province to another, the purpose of Bill 80 is not to "launch a war"



against the internationals; it is merely to ensure that our rights are protected.

I don't think you're going to see any wars launched. If there is just cause, that will be dealt with arbitrarily, before a panel, as we do every day in front of the labour relations board with employers. I haven't had any employer shoot at me; I don't think I'll have an international shoot at me. I don't think it will affect mobility whatsoever.

**Mr Mahoney:** The Ontario Labour Relations Board is a pretty busy organization.

**Mr Keith Cooper:** Indeed.

**Mr Mahoney:** Do you have any concerns about them taking on the role of referee in what I think is primarily internal union politics? But you may not. Do you think there's a problem in that area potentially?

**Mr Keith Cooper:** The only potential problem may be a funding issue, which would have to be addressed at that point in time. Other than that, the whole concept of the labour relations board is, of course, one of government involvement in the unions to promote a fair and quick, efficient system, and to keep us out of the courts, which quite often become clogged and take two or three years to resolve any matter. I don't think it will be in any way affected by the labour relations board or vice versa.

**The Acting Chair:** If I might, if you have one more quick one, because Mr Murdoch would like—

**Mr Mahoney:** I'd just like clarification on a reference to something you said. You're suggesting on page 4 of your presentation, if I understand this correctly, that you don't even want them to take into consideration the terms of the constitution when making a decision; just forget it. Is that what you're saying?

**Mr Keith Cooper:** No. If you read it correctly, it's a simple matter of semantics. As I said in my report, the board is not bound by the union constitution.

**Mr Mahoney:** You don't even think they should consider it, though, even if it's semantics?

**Mr Keith Cooper:** That's not the point. It's still in there as being "they shall consider." My point is they shall not first consider. It can be considered among other principles of fairness, but it shouldn't be the—

**Mr Mahoney:** So then you don't necessarily want it deleted entirely; you just want it to read that they must at some point consider it.

**Mr Keith Cooper:** They may consider it indeed.

1750

**Mr Murdoch:** I want to congratulate you for coming here and for making your presentation. As you know, I agree with this local autonomy. That's one of the reasons I said I got elected.

I do have a bit of a problem with government having to do this and, as Mr Ward pointed out, the Liberals and the Conservatives had done it in the past. That doesn't mean it's right, but if this is the way we have to go, then I guess this is the way we're going to have to go. What I'm hearing from a lot of the locals is that's what you want us to do and that's maybe what we're going to have to do.

The internationals—some of them have been here and I see some more of them are coming—try to tell us, and they say this will create chaos and management's not going to like this and it's going to cause a lot of problems. You really don't foresee that?

**Mr Keith Cooper:** As I pointed out in the report, to the best of my knowledge, I don't know of any employers who have made any mention of the bill. I may be incorrect in that assumption, but I don't believe so. As I said to the honourable member before, I don't feel it's going to create a war between the internationals. It should promote fairness.

**Mr Murdoch:** I think most of the locals have expressed that and that's why we're here, to listen and to see. I would hope then the bill proceeds as fast as it can, once they have the hearings and everyone's had a chance.

**Mr Keith Cooper:** Indeed.

**Mr Murdoch:** So again, thanks for coming out. I don't have a lot to ask you because I sort of agreed with what you've said so far.

**Mr Keith Cooper:** Thank you.

**The Acting Chair:** Just as a point of clarification, actually the Boilermaker Contractors' Association of Ontario—

**Mr Keith Cooper:** Did make a representation.

**Interjection:** On Monday.

**The Acting Chair:** Yes. Thank you. Ms Murdock.

**Ms Murdock:** Thank you very much. I had such a short time the last time to ask the question, I didn't even think to thank the presenters, so I'll do that first off.

I want to follow up on Mr Mahoney's point on page 4 of your presentation because I'm surprised, actually, that you would delete "must first consider" the constitution of an organization based on the fact that the phrase is simply unnecessary. I would think that because it is not "bound by" following it, but that it should be a consideration of the rules of how you organize yourselves and each union might have something a little bit different as to how they operate and therefore their constitution would be relevant to a decision made by any independent body.

**Mr Keith Cooper:** Therefore it should be considered.

**Ms Murdock:** Yes. I'm surprised you would ask to have "must first consider" removed.

**Mr Keith Cooper:** As I stated at the beginning of that sentence, it was a simple matter of semantics. The particular section we're speaking about goes on to say "shall not be bound by." If it shall not be bound by, I think in terms of fairness that all of the other issues which the board may deem to consider should be considered equally. The weight attached to "must first consider" seems to indicate that you should first and foremost consider a union's constitution without regard necessarily to equal weight to all the other considerations.

I think all considerations should be equal. If the constitution has a relevant provision which is not onerous in any way, which is fair under any system that we know and it is applicable to whichever situation arises at the time then, yes, the constitution can be consulted and considered and perhaps even adhered to.

On the other hand, a particular constitution may have a very onerous provision which places a demand which may be impossible for the local union to meet. I don't think any additional weight should be attached to that. I think it should be taken in concert with the rest.

**Ms Murdock:** I thank you for that. I don't know whether I agree with you, mind you. Anyway, I wanted to ask you—one of the earlier presenters today had talked about the Bill 40 expedited hearings and how it has speeded things up. I know part of the Bill 80 is expedited hearings with a construction panel who have some knowledge of the industry and I want to know whether or not, in your experience, the expedited hearings since Bill 40 have truly speeded things up and whether that would be applied to the construction industry.

**Mr Keith Cooper:** My experience at the board, to be perfectly honest—most of what we call section 126s, which are common grievance referrals to the board, are automatically expedited matters. That alone has helped us considerably. The other provisions for expedited matters, personally I've only handled perhaps three. In my three instances they have been quite well done, quickly and have resulted in quick resolutions and amicable resolutions. It should be applied and it should be carried through in certain instances. I think it would be a help to the labour board.

**Ms Murdock:** Thank you.

**The Acting Chair:** Any other questions from the members? The bell hasn't gone. Well, hearing no other questions, I thank you very much, Mr Cooper, for coming in.

**Ms Murdock:** I just think they should be commended on having done this so quickly and expeditiously.

**The Acting Chair:** That was the other part of it. Yes, I also thank you for the way you dealt with our time allocation.

**Mr Mahoney:** I had a request and I sent it through to you for two other people, local unions, to appear and I don't know if you got it yet. I just wonder how we might deal with that. I know we're on a very tight schedule, but if there's some way of fitting them in, even if it's only

for a 10- or 15-minute presentation, considering the fact that they relate—

**The Acting Chair:** We have a waiting list.

**Mr Mahoney:** We have a waiting list already?

*Interjections.*

**Mr Mahoney:** Maybe next meeting you'll have my letter by then. Maybe we could combine a lot of them.

**The Acting Chair:** Could we keep it down, please. We're still conducting the meeting. Hopefully by the next time, on Monday, I will have that letter.

**Mr Mahoney:** If we're able to combine a number of them into one presentation, sort of like we had today—the only thing is that when we do combine three presentations and you wind up with no opportunity for questions, I frankly don't think that's fair to the committee members.

**Mr Len Wood (Cochrane North):** Or the presenters.

**Mr Mahoney:** Or to the presenters. That's right, because we may even need clarification. In future, if we are going to combine presentations, I think we must insist on at least having five or 10 minutes at the end of an hour-and-a-half presentation for committee questions.

**The Acting Chair:** Thank you, Mr Mahoney. Ms Murdock.

**Ms Murdock:** I would like to correct the record from when I chaired on Monday. After one of the presenters who was in favour of Bill 80, I made the statement thanking them for appearing and that they were the first group that we had heard and I was corrected by the critic, and justly so, that there had been one presenter, Mr Majesky, before that. I understand that some people in the audience were not very pleased at that, so I would like the record corrected.

**The Acting Chair:** Thank you, Ms Murdock. Any other statements? Hearing no other conversation needed, I would like to draw things to a close for today and we will meet again Monday at the beginning of routine proceedings.

The committee adjourned at 1758.





## CONTENTS

Wednesday 24 November 1993

<b>Labour Relations Amendment Act, 1993, Bill 80, <i>Mr Mackenzie</i> / <i>Loi de 1993 modifiant la Loi sur les relations de travail</i>, projet de loi 80, <i>M. Mackenzie</i></b> .....	R-567
Ontario Sheet Metal Workers' and Roofers' Conference .....	R-567
Jerry Raso, staff legal counsel	
George Ward, business manager	
Sheet Metal Workers' International Association .....	R-567
James Moffat, business manager, Local 30, Toronto	
Al Budway, business agent, Local 30, Toronto	
Tim Fenton, business manager, Local 397, Thunder Bay	
International Brotherhood of Electrical Workers, Local 353 .....	R-579
Joe Fashion, business manager	
Bill Robinson, assistant to business manager	
Laborers' International Union of North America, Local 183 .....	R-583
Keith Cooper, coordinator, legal affairs	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chair / Président suppléant:** Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

\*Fawcett, Joan M. (Northumberland L)

Jordan, Leo (Lanark-Renfrew PC)

Klopp, Paul (Huron ND)

\*Murdock, Sharon (Sudbury ND)

Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)

\*Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer

**Also taking part / Autres participants et participantes:**

Bill Murdoch (Grey-Owen Sound)

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service

CAZON  
XC13  
-576

R-26



R-26

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 29 November 1993

# Journal des débats (Hansard)

Lundi 29 novembre 1993

## Standing committee on resources development

## Comité permanent du développement des ressources

Labour Relations Amendment Act, 1993

Loi de 1993 modifiant la Loi  
sur les relations de travail



Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Monday 29 November 1993

The committee met at 1544 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

**The Acting Chair (Mr Daniel Waters):** I call the meeting to order. This is the standing committee on resources development and we are here once again meeting on Bill 80, An Act to amend the Labour Relations Act.

**Mr Mike Cooper (Kitchener-Wilmot):** I move that the committee be authorized to sit beyond 6 of the clock this evening and Wednesday evening to accommodate the presenters who are on our list.

**The Acting Chair:** Is there any discussion on Mr Cooper's motion?

**Mr Steven W. Mahoney (Mississauga West):** I just want to make it clear that the reason it's necessary to extend sittings is not the fault of the presenters, but because the government brought in a motion of closure, a motion of time allocation, and effectively shut this process down. Whatever side of the issue you're on, you've just been told that if you haven't presented yet, your time for the presentation is going to be reduced, a time, I might add, that was agreed to by all three parties, by all members on the steering committee, in an attempt to make sure everyone had an opportunity to be heard.

Your time has been reduced and the only way we can accommodate the presentations is by extending into evening sittings. This creates problems, frankly, for me as the critic. I have other commitments that are long-standing. I'll be able to be here for some of the presentations and not be here for others. That is not a function of whether they are in favour of or against Bill 80, but clearly a function of timing conflict.

The government has shut it down. For those of you in favour of Bill 80, you will get your wish. On December 6, there will be a vote and the motion will carry. This whole thing is a waste of time, but it's a charade we're forced to go through with. As far as I'm concerned, if you want to sit tonight, I'll be here when I can, and when I can't, you can recognize a quorum without me.

**Mr David Turnbull (York Mills):** I'm quite concerned, because as Mr Mahoney has suggested, both the Liberal and the Conservative parties have pushed for more extensive hearings over this bill. We recognize there's concern on both sides and we believe we should be listening to the merits of both arguments.

The problem we have in extending these hearings today is the ability to provide the manpower for the committee. We are the smallest caucus, so we have fewer people available. We would like to hear it, but I don't know if it's possible physically to provide anybody. I am

sitting here by myself today and I will not be available in the evening, due to a prior commitment. I would suggest that the appropriate thing would be for the government to provide more time in a more organized way.

**Mr Cooper:** Just in response to a few of these things that have come up, we've already tentatively scheduled some people for this evening starting at 7:30, so we could have some presentations and we've already tentatively scheduled some people for Wednesday. Wednesday will obviously be a little longer because it's more likely that people will come in then.

One of the things I'd like to express right now is that the government has made a commitment to do Bill 80. There has been a commitment for a fair while now. From the presentations, we feel it would be really unfair to leave it hanging out over the winter. That's why we are trying to bring it in now and get it through third reading, so we create some stability in the construction industry.

One of the other concerns that was raised was whether the critics are here or not. One of the things in the standing orders is that the government can call for extended night sittings for the last two weeks of the regular, scheduled sitting. So for members to be scheduling then for personal things in their ridings—they are under the assumption that they could quite possibly be here. It is nothing extraordinary that we've scheduled committee sittings for the evening because the House should be sitting anyway. There is that expectation there.

**Mr Turnbull:** Mr Cooper, we're not into midnight sittings today. We've had no notice of this motion. I want to strenuously object to any suggestion that in some way we don't want to hear these presentations. We do. From the very beginning, we pointed out that we should have more time available. It's all very well for you to whistle and tell us we should have extended sittings tonight. We have commitments. What are you telling us, that we should ignore our constituents? I'm not sure what you're saying with that. You know quite well that we don't go to midnight sittings tonight.

**Mr Cooper:** Just because of a technicality. The last time the government proceeded with some changes to the standing orders there was a slight oversight in the wording. It says "the last two weeks in December," so we're caught on a small technicality. But our commitment is to hear as many people as possible and that's why it was included in the motion that we would sit late.

**Mr Turnbull:** Let's just discuss these—

**The Acting Chair:** One at a time, Mr Turnbull, please. Are you finished, Mr Cooper?

**Mr Cooper:** Yes, I am.

**Mr Turnbull:** The changes to the standing orders were so that the last two weeks of the sitting would be earlier than they had been in previous years because the government reduced the sitting time of the House by one week. But due to the incompetence of the government in

terms of ordering its business, we won't be finished at the time they said we had to be finished by, and we're now told that we will be sitting to the 16th, which is fine by us, but please don't try to suggest it's some slight technicality. You made the changes and quite frankly we're not sticking with the changes you made. We're not rising in two weeks' time; we're rising in three weeks' time.

1550

**Mr Mahoney:** If we're lucky.

**Mr Turnbull:** If we're lucky. Please don't try to confuse an otherwise very clear issue. Your government has not brought this with the adequate amount of public hearings, which both the Liberals and the Conservatives called for, and now you're trying to save your own bacon by going to extended sittings in the evening, with no notice whatsoever.

**Ms Sharon Murdock (Sudbury):** Just a question for clarification purposes here: Was I not correct in understanding that the time slots were filled until the House rose, with an additional 12 on the waiting list to be heard, and that they had all been filled right up till 6 o'clock Mondays and Wednesdays of every week? Is that correct?

**The Acting Chair:** As I am, shall we say, an Acting Chair, I will ask the clerk to clarify that for you.

**Clerk of the Committee (Ms Tannis Manikel):** Yes, last week we did have people on a waiting list. Based on the motion in the House, I contacted the Vice-Chair and we agreed that I would contact all the people on the agenda as well as everyone on the waiting list. As of this afternoon, we had been able to reach all but four groups. We've left messages and/or faxed these groups, but we haven't heard a response from them.

**Ms Murdock:** Of the 12 that were on the waiting list?

**Clerk of the Committee:** Of the 12 that were on the waiting list, plus all the people who were scheduled this week and next week. We've been able to reach them. A lot of the people have said they will send in written submissions. As you'll notice, there are a few on your desk today and I expect there will be more written submissions coming in.

**Ms Murdock:** What time was the plan? When you say "sit past 6 of the clock," what time were you thinking of?

**The Acting Chair:** If you're looking for some historical references to what was indicated, I would ask the clerk once again to search her memory, as I am substituting.

**Clerk of the Committee:** When Mr Cooper and I discussed it, what I suggested doing was, Thursday afternoon there were 20 groups on the agenda and waiting to be scheduled. We would try to schedule 10 for today and 10 for tomorrow, also realizing that we could put more on in the afternoon sitting because the order of the House reduces the presentation time to 20 minutes from 30 minutes, which the committee had originally scheduled.

Based on that, we tried to contact people. At this point in time, we don't have as many people scheduled for this evening because we just couldn't get people to come on the short notice. Right now we have things scheduled till 10:30 on Wednesday.

**Ms Murdock:** And the plan is that we're sitting till approximately 8 this evening in the House?

**The Acting Chair:** To give you all the information, I would ask Jerry, our legislative researcher, if he has a comment.

**Mr Jerry Richmond:** I didn't want to curtail the—

**The Acting Chair:** Oh, I see.

**Mr Richmond:** I was thinking of speaking when we're finished.

**The Acting Chair:** Okay. Then there was someone over here. Was it Ms Witmer?

**Mrs Elizabeth Witmer (Waterloo North):** Yes. I'm very disappointed at the process that is being used in this committee. We had originally had a meeting. It had been determined that this committee would sit for approximately four weeks, listen to delegations and each delegation would be allocated 30 minutes. Now I see us changing the rules in midstream. I think it's extremely unfortunate, because I can tell you that personally I have other commitments that I have made and I cannot change those commitments. I'm already having a hard time. The government has seen fit to go ahead with Bill 79, employment equity, and this Bill 80 at the same time. I simply haven't been able to be in two places at the same time to begin with.

**Mr Mahoney:** Both by closure.

**Mrs Witmer:** Yes, and both of them are going to come to a conclusion by closure by this government.

Do you know, this whole process of sitting here listening to the people who are making representation, I see it each day as more and more of a farce, ever since I came here. I just find it totally unbelievable. The government will make absolutely no changes to the legislation whatsoever, and now we say to people, "Listen, you'll be here till 8 o'clock." At the last minute, you expect people to jump. It's simply not fair. You've said to people, "You can't speak for 30 minutes; you'll only have 20." If this is democracy, it's not the same definition of democracy that I'm familiar with.

I find it totally inappropriate to be pushing this legislation through just because the government has decided it wants it through before Christmas. I think the appropriate way we should have handled it is that we should have had these hearings after Christmas, in January or February. We should have had all-day sittings, and we could have listened to the presentations. They are important presentations. There is a huge majority of people in this province who are opposed to Bill 80. We need to make sure we record all of those viewpoints.

What we're doing is that we're trying to shove it in. The message we're giving to these people is, "It really doesn't matter as long as we said we've heard you; we've accomplished what we want." But I think it's disgraceful the way in which we've treated the people who are making representation regarding Bill 80. I just do not believe they're going to get the audience and the questioning they so rightly deserve, and I don't think the government's going to be aware of all the concerns at the end of the day and we're not going to have the best piece of legislation possible. I urge the government to be fair and to treat all the presenters in the same way.



**Mr Len Wood (Cochrane North):** As to the debate I hear from the members of the third party, I was under the impression that this was a decision made in the House on time allocation and closure.

**Mrs Witmer:** You out-voted us.

**Mr Wood:** Why are we debating it here again now in committee when the decision has already been made in the House that this is the way we're going to proceed, with 20 minutes per presenter, and that the legislation will be brought back into the House?

**Mr Mahoney:** The reason we're having the debate here is because we want all the presenters who don't sit in the Legislature to understand (a) why their time is being curtailed and (b) why their schedule is being changed to require them to give up their evenings when they may also have additional responsibilities and things they need and families they'd rather be with than sitting here spinning their wheels talking to a committee that isn't going to do anything on either side of the issue. I don't know how many are left to present in favour of Bill 80, but on either side of the issue.

This committee now has to decide whether or not we're prepared, and for how long, to sit evenings, and the scheduling and everything else.

The member is correct. The decision has been made. It's going to the 6th. For all that's going to be accomplished—and you've got the majority—you might as well just disband the hearings, cancel them. What's the point? You're clearly saying to people that you've made up your mind, and obviously that was made up before.

The thing that is so incredible about this, more than any other closure motion I've ever seen, is that this bill is retractive to the day it was introduced in the Legislature. So what's the difference if you pass it on December 6, December 8, December 25, February 3? There is no difference. The bill is completely retroactive. The people who want it will win the day. The day it receives royal assent, it becomes law the day it was introduced. So if there are any problems that need to be dealt with, they'll have the hammer they're looking for to deal with it.

It's absolutely impossible for opposition members to understand, and you recognize that we raise points of order all the time in the Legislature about the rights of the minority. Your party used to be a party that cared about the rights of the minority. We are the minority, we are in opposition. We are trying to speak on behalf of the majority who are opposed to the bill, because that clearly is our job. As we see it, that's our responsibility, and we're being told that our rights as the minority in Parliament are going to be trampled on and at the same time the rights of the people who want to express their views on either side of the issue are being curtailed.

1600

So let's just make sure we understand the significance of this. We've had four time allocation, ie, closure, motions in six days of sitting of this Legislature, and I'm told there are two more coming today. This is the mentality. You can't run the government, you can't make agreements, you can't get legislation passed, so you've got to bring in closure and muzzle everybody.

If either the Chairman or members of this committee think for one minute that we're going to sit here and just quietly put up with that and agree to rescheduling our entire lives and the lives of the people who are coming here to present, you're sadly mistaken. This is an absolutely unjustified outrage against democratic principles and the members should know it. I believe even the members opposite are embarrassed by the minister coming in with this motion, because you cannot give me one argument that holds any water that says this is the way we should deal with it.

When the bill is retroactive, you should allow everybody to have their say, even allow the 12 to come back in the new year. I'm prepared to come back into this place in January or February or whenever the hearings need to be set and sit here even if the House isn't sitting and listen to the concerns of those people. I don't understand for the life of me why the government members on this committee don't tell the minister that they're prepared to do it as well.

So you set your schedule. You guys are the boss, you're in charge, you're the big heavy hitters, you've got the hammer, you've got the majority, you chair the committee—Mr Chairman, this is not your fault—and you guys set the schedule. My position is that the Liberal caucus, the critic or a substitute member, will attempt to be here to listen out of due respect for the people, but I can't guarantee you that there will be a member from our caucus here at all times during the evening sittings.

**Mr Cooper:** In response to Mr Mahoney's comments first, I think Mr Perruzza stated it quite eloquently in the House. You talk about the rights of the minority. What about the rights of this New Democratic government to govern? Basically, they've gone on and on in opposition and tried to delay. Where previous Liberal and Tory governments have been able to put through 30 bills a session, we've only been able to manage to get 13 to 15. That's why we have had to call closure, because the opposition doesn't believe in the right of this government to govern.

I would suggest to the member that also, if you look at Bill 80, this is representing the minority out there. As you can see from most of the representation that has come through, it's the minority that is calling for this legislation, not the majority, so we are still defending the rights of the minority.

As for Ms Witmer's comments, one of the things we've suggested as the government is that we want to get rid of Bill 80, get it passed through the House because of the chaos she talked about in her opening statements on Bill 80, the chaos out there in the industry and the infighting between the trades. The idea of this government is to get it done because we've made a commitment that we are going to do it, and I think the opposition members should allow us to proceed with that.

**Mr Turnbull:** Mr Chair, I move that we put the question now.

**The Acting Chair:** Mr Turnbull has moved that we put the question. So the first vote is, do we put the question?



All those in favour of putting the question? All those opposed? Seeing none, we will put the question.

Now we shall consider the question put.

**Mr Mahoney:** You don't get to vote.

**Mr Cooper:** I'm a member of the committee.

**The Acting Chair:** Just a second, so that everybody's very clear. Mr Cooper's motion was that the committee agree to meet beyond 6 pm this evening and Wednesday evening to hear the presentations. That's the motion we're voting on.

**Mrs Witmer:** Recorded vote.

**The Acting Chair:** All those in favour? Keep your hand up; it's a recorded vote.

**Ayes**

Cooper, Murdock (Sudbury), Wilson (Kingston and The Islands), Wood.

**The Acting Chair:** All those opposed?

**Nays**

Fawcett, Mahoney, Turnbull, Witmer.

**The Acting Chair:** I'm going to call a five-minute recess because I want to make sure I call this one correctly. I think you can understand that.

**Mr Mahoney:** How can you do that in the middle of a vote?

**The Acting Chair:** I have the right to reserve my judgement for five minutes. Thank you.

*The committee recessed from 1607 to 1614.*

**The Acting Chair:** I am going to call the committee back to order. After a short deliberation, I'm going to be supporting Mr Cooper's motion because it indeed allows more discussion on Bill 80. On that premise, I will be supporting Mr Cooper's motion.

**Mr Turnbull:** Can I have an unequivocal commitment from the Chair and from the members of the NDP that because there won't be opposition members here tonight to hear these important presentations, the government will not be in some way suggesting we weren't interested in this process?

**Mr Cooper:** If I may, I understand the interest the opposition has in this. I went to Ms Witmer and Mr Mahoney and I discussed it with them on Thursday. They did say they have commitments and it's not that they're not interested if they're not here and can't provide substitutes. The presentations will go on. I understand they do read Hansard and have research people who read Hansard and they will be following all the presentations on their own if they're not here and present in committee.

**The Acting Chair:** Mr Mahoney was up next.

**Mr Mahoney:** I just want to point out that as I understand it, and I don't consider myself by any means an expert on parliamentary procedure or the rules of this business, the Chair of a committee has basically two choices in deciding how to vote in a tie vote. One is to uphold the status quo, which would have meant you would vote against the motion and it would have been defeated, the status quo being that the committee sits till 6; the second is that you want to allow further discussion, which is a bit of a loophole in parliamentary procedure to

allow the Chair to vote to support the motion.

It should just be clear that a Chair—that's one thing I do know, having been a Chair in the former government—is supposed to be completely impartial and neutral and not show any partisanship or bias either on the issue or on any party lines. Clearly, I think you opted for the decision, Mr Chairman, with all due respect, to support the motion based on your partisan responsibilities to the government.

**Mr Paul Klopp (Huron):** Oh, that's unkind.

**Ms Murdock:** It's imputing motives.

**Mr Mahoney:** I find that unfortunate, and when you're in a majority government with a minority in opposition, the more appropriate ruling would have been to uphold the minority, in this case the opposition, and to vote against it.

**Mr Klopp:** No debate. Close down debate.

**Mr Mahoney:** There is no debate on this. Don't come in here and start this nonsense, when you weren't even here for the vote. If you had been here for the vote, you wouldn't have put your colleagues in the position they're in, so don't give me that nonsense.

**Mr Klopp:** Don't give me that game. I've seen it before. I come from the real world.

**The Acting Chair:** Mr Mahoney, I'm not in the habit of justifying my rationale and getting into a debate. My ruling is my ruling. The committee was told the reasons for my ruling, and that's it.

**Mr Mahoney:** And you cut that off too.

**Mrs Witmer:** I would just like to indicate that, unfortunately, we were not aware that the House would be sitting. I had asked today for a copy of the agenda and received at 1:37 pm today an agenda that showed presentations from 3:30, with the last one beginning at 5:10. Unfortunately, we do not have any members of our caucus who will be able to be here beyond 6 o'clock this evening. I find it extremely regrettable, because although we can read the Hansard, we will not have anyone here to do any of the questioning. Obviously, we cannot jump when this government says "Jump." People do have other commitments and, unfortunately, are not able to be here this evening. I just wanted to say it's regrettable. We can read, but it doesn't give us an opportunity to ask those very important questions.

**The Acting Chair:** Any further discussion? Seeing none, there's something else I have to deal with. Legislative research had something they wanted to enlighten us on.

**Mr Richmond:** Very briefly, I just thought I'd bring to your attention that in your package of material you have a summary of the deputations as of last week. There's also a memo I put together on the jurisdictional assignment plan and the umpire. There was a question on this issue by Mr Hope last week, so if any of you are interested, that material is there. On the jurisdictional plan in BC, I received this morning a detailed package from Vancouver. If any of the members should be further interested, I'm willing to make this available through the clerk or to individual members.

1620

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 804

**The Acting Chair:** I call the International Brotherhood of Electrical Workers, Local 804. Could you introduce yourself, please, sir, and then carry on with your presentation. I apologize that we've eaten up a lot of the time this afternoon, but those things happen in committee.

**Mr Tom Keagan:** Thank you. Tom Keagan, assistant business manager of Local 804, IBEW in Kitchener, Ontario. My brief is fairly lengthy. I have no way in heck of being able to read it in half an hour, let alone 20 minutes, so I will be skimming over it and highlighting a few parts. I would ask everyone to read it, though, please, because the information backing up the parts I will highlight is in the brief.

The first part, the overview, will be very difficult for you to keep up with me on, again because I'm going to be jumping over a lot of things.

It's my opinion that the following facts will show that Bill 80 is the most discriminatory, ill-conceived, unwarranted and unsubstantiated piece of labour legislation in the free world. I've quoted from four constitutions: one international construction union, an international industrial union, a national industrial union and, finally, a national service union in this brief. The reason for leaving the space is that if we believe the government's rhetoric, the heavy-handed, overbearing constitution of the international construction union will be very obvious. I find that you will probably not be able to see that.

After reading it, it would appear that there is no difference in unionism, that is, to improve the life of all members, regardless of race, sex, creed or nationality. It does not have political boundaries.

Skipping to page 5, after reading the previous excerpts from the various constitutions, it should be quite clear that in all cases the supreme power is in the constitution and, ultimately, the delegates to the individual conventions which amend the constitution. It therefore matters not whether the authority to administer the constitution comes from Washington, Toledo, Ottawa or Toronto: All members are treated equally.

In all four unions the delegates who attend the convention are democratically elected by the rank-and-file membership of their local unions. In all four unions there is a multilevel appeal system on charges, penalties and jurisdiction etc that flows through to the convention floor. This final appeal is therefore controlled by the rank-and-file members through their democratically elected delegates.

I'll now be referring to the material in tab 1, "Trusteeship and Removal of Officers." To go to page 9, I want to point out one item, because it has been made in reference to the construction unions because of their type of work and hiring hall. If you look near the top, it says, "In the case of a workplace in which union membership is a condition of employment, expulsion from membership shall require removal from the job." That, my friends, is in a constitution that is not a construction

union constitution, so there's just as much heavy-handedness in the industrial unions.

Mr Cooper, in trying to justify the bill, then uses two examples of the Labourers union in Toronto and London. If the internationals are so heavy-handed, why is there not a long string, right up to the present day, of trusteeships? Let's not forget about the removal of Cec Taylor, the head of the United Steelworkers local union in Hamilton. Should not the officers of the Minister of Labour's own union be offered the same democratic protection as the officers of construction unions? Why are we all of a sudden so privileged?

Cec Taylor was in exactly the same position as Brother Joe Fashion of Toronto. They were both removed from office; they were both presidents of their local. Why the difference?

The latest Statistics Canada records of trusteeship show there were two by construction unions, two by the government unions, six by industrial unions. Further to that, in March 1993, at tab A you will find, on the highlight from the Ontario Labour Relations Board, another four trusteeships by the Paperworkers, a Canadian industrial union.

It seems like the non-construction national unions have an equally heavy hand. Where is the democratic protection for their members? Mr Cooper's two examples pale by comparison to the above statistics.

One only has to read the statement of the Labour minister's parliamentary assistant, Mike Cooper, in the October 16, 1993, Kitchener-Waterloo Record: "But Kitchener-Wilmot MPP Mike Cooper says Ferguson's move to oppose the government might come back to haunt him if he seeks to return to the NDP caucus. Cooper said there is no doubt that Ferguson will pay later for his independent stance if he returns to the NDP caucus."

That's some democracy, and by the person who is supposed to be sheep-herding this bill through the Legislature that is supposed to bring democracy to the construction unions.

I refer you to tab 2, dealing with pension and health and welfare plans. In the majority of cases in the construction unions, pension and health and welfare plans are controlled by a local board of trustees or jointly trusteesd. These have all been set up in the past by the trustees, not by management, not by government. It is not necessarily the case in other sectors, where quite frequently the plans are controlled by management.

Also, to operate a pension plan in the province of Ontario you must meet the requirements of the Ontario pension act. If this act is good enough for the industrial, service and government unions, why is it not good enough for construction?

Following you will find a list of 20 cases which are laid out at tab B. These are 20 cases that went to the Ontario Supreme Court, one of which involves six unions and hundreds of millions of dollars. Not one of them was involved with a construction union. You're trying to tell us we have problems?

As a matter of fact, of the 14 building trades unions in



Ontario eight have their own locally controlled pension plans and health and welfare plans. Five are provincial, which is strictly within the boundaries of Ontario. To my knowledge, there is only one that has a problem. Are you going to try to bring in legislation to correct that one problem, with all these other problems in the industrial sector? Not only that; you risk the two plans with the Boilermakers and the Pipeline pensions, which are country-wide, and that could end up screwing up two plans to save one.

There's one other incident I would like to bring to your attention and that involves the merger of B.F. Goodrich and Uniroyal and the sale of a third plant, Epton Industries, all in the city of Kitchener, Ontario. Local 677 of the Rubberworkers lost \$3.5 million from its pension plan, Local 73 lost \$1.5 million and the salaried employees of all three plants lost \$23 million. The \$3.5 million that the company claimed as a surplus and refused to turn over to the members is now listed as a \$5-million deficit. Where is the government's concern for these fellow union members? Where is Minister Mackenzie's concern for his own brother workers in the Steelworkers union? Where is Mike Cooper's concern for the brothers and sisters in the Rubberworkers and fellow citizens and voters of Kitchener?

Joe Fashion, business manager of a Toronto local who supports Bill 80 and is a trustee, claims it is needed to give more control to trust funds of the local union. This is the same Joe Fashion who backcharged his local's trust funds over \$250,000 in administration fees. How much more control does he need—\$500,000, \$1 million? Where's his concern for his trust fund members?

I refer you to tab 3, which deals with jurisdiction. To accuse the internationals of exercising arbitrary power, as Mike Cooper did in the Legislature on October 5, 1993, is simply untrue and only shows a complete ignorance of the facts. Two of the jobs referred to, one of them which Mr Cooper didn't refer to but which is known as Greenbelt and was alluded to earlier in proceedings by Joe Fashion from Toronto—it is not true. Nicholls-Radtke did not want to bring its men onsite. Those men came from the hall. As a matter of fact, two Local 353 members remained on that job from Local 353 as foremen. There is a further explanation of it there.

The one that Mr Cooper referred to was a Local 1788 project involving miscellaneous hydraulic projects. You will see there is an explanation as to how this came about. It was a long-standing problem. It was not an immediate problem.

Now I refer you to page 14. On page 14 you will find laid out, from both the line sector agreement and the generation agreement, the parts that, if you refer to them, will point out exactly where this problem arises. By shifting the work to the line sector agreement, Local 1788 is now claiming work done by contractors, even though in the 1988 agreement the work excluded in a generation agreement was work performed by Ontario Hydro on a miscellaneous hydraulic project, not work performed by a contractor. Yet they are trying to claim it.

As further proof of 1788's encroachment on other work, I draw your attention to the addition of microwave

and repeater stations which now appear in the 1988-90 line agreement, even though they are still covered and included in the recognition clause of the generation agreement. For your information, only workers from the 13 other locals work in the generation. We do not work in the line. By shifting it to the line, they take it out of our hands, thereby claiming other work which is really ours.

To finalize things, I would like it to be noted that Local 1788 was chartered to supply men to Ontario Hydro only and never was intended to supply men to contractors. There has never been an attempt by anyone to take that work away from them, and that is contained in a letter by John Sprackett on page 2, which you will find at tab E, on the second page, "At no time has there been any discussion whatsoever concerning Local 1788 jurisdiction over all work done directly by Ontario Hydro employees."

**1630**

As you can see, the document referred to by Mike Cooper came after many years of input by both sides on a very complicated issue. It was anything but arbitrary.

I refer you to tab 4 dealing with successorship. As I understand it, this will be removed, so I won't spend much time on it other than to point out that one of the statements made by the Minister of Labour in introducing the bill was: "No avenues currently exist to change these bargaining agents. Yet, in every other industry, other options, such as decertification, would be possible." I'll refer you to tab F at your leisure to find a decertification application which was successful, and tab G, a change in bargaining agent, which was successful. So much for the misinformation being spread by the government.

**Mr Mahoney:** This could come back in by regulation one day, by the way.

**Mr Keagan:** Oh, great.

**The Acting Chair:** Thank you for your input, Mr Mahoney.

**Mr Mahoney:** You're welcome. I just thought you might like to know that.

**Mr Keagan:** I'll refer you to tab 5, the amendments. Adding the words "just cause" in several amendments to me is no more than a slap in the face and an insult upon the integrity of construction unions. Even the courts, which are not exactly a bastion of union support, would not stoop this low as indicated by Justice Reid of the Ontario Supreme Court. "If the courts were too ready to intervene in the internal affairs of unions, they would, in my opinion, demonstrate an inappropriate disrespect for the union movement and all that it has achieved." Following you'll find four other court decisions which have upheld the internal procedures of unions.

Go now to tab 6. I'll try and summarize everything. All unions, national, international, industrial, construction or others, are governed the same. You will find that by reading all the information in the overview. Trusteeships of locals and removal of officers are similar in all constitutions. There are more trusteeships in the industrial unions and other unions than in construction; that is supported by the evidence at tab 1 and tab A. Pension problems in the industrial and other unions far outweigh



the construction problems; that's at tab 2 and tab B. Jurisdictional problems have been very few and dealt with only after proper investigation. The courts have recognized the appeal systems of the unions.

Because Bill 80 is aimed at construction only and there are more problems in the industrial and other areas, the government has lost credibility in this matter. Further credibility is lost when one considers the misinformation being spread and the totally unprofessional way the government has handled this bill.

Example: Minister Mackenzie's statement to the Legislature about Bill 80 on June 25, 1992, "My ministry has also sought advice of the bipartite Construction Industry Advisory Board and major employer organizations." I refer you to the letter from the Construction Employers Coordinating Council of Ontario on behalf of all management members of the CIAB dated July 2, 1992, and the letter from Mr Ken Woods and Mr Jim Phair, CIAB members, dated July 6, 1992, at tabs 8 and 9. I refer you to tab 8 for one minute, please, second page of the letter from the contractors. Not only do they have a concern with it, but, "We would suggest, Mr Minister, that you set the record straight." I haven't seen him set it straight yet.

I also draw your attention to the minutes of a meeting held in Ottawa on July 22, 1992, between the Canadian Executive Board of the Building and Construction Trades Department and Mr Brendon Morgan, at that time the special assistant to the Minister of Labour, "Question: There was a perception in the press release of the minister that the CIAB had supported Bill 80. Any comments?" Brendon's answer? "The press release was inaccurate. If I had seen it, it wouldn't have got out."

Now let's look at the minister's own words in a speech to the Ontario provincial building trades convention in Kingston in October 1992: "I want to say also that one of the criticisms, and I accept it, is that there was not enough consultation on it. I think there's some legitimacy to that charge."

The next page is page 19 in Hansard on October 4, 1993. Mr Cooper said: "A number of unions are on record as supporting the bill.... The London and District Building and Construction Trades Council." I met with Mike at his office in Toronto on Tuesday, April 6, 1993. At the time of the meeting, I explained the London situation to him, that the London building trades council does not support Bill 80. I refer you to tab 10. It has a letter from the London building trades. The bottom paragraph is, "It is our majority position that Bill 80 in its present form cannot be supported by the London district building and trades council." The letter that is being circulated and referred to that is supported by the London building trades council is signed by only three members of the executive and does not reflect the total council's position.

Even more credibility is lost when you consider the involvement of a full-time CLC staff representative in this matter. I will read to you. There was a presentation by Mr Barry Fraser, who appeared here earlier. Here is an excerpt from his speech given to the Kitchener and district building trades council held in March 1989:

"At the last convention of the Canadian Labour Congress a resolution was passed for the congress to render operational a Canadian structure of building trades unions in all provinces of Canada. The congress wants to have all of the construction unions to reaffiliate so that we may build a stronger central body in Canada. Because of the foregoing, the Canadian Labour Congress has assigned me to work on the reaffiliation of the trades in Canada," and then he appears at this hearing supporting Bill 80.

**Conclusion:** The evidence shows that all unions in Ontario operate the same and wield the same power, yet there are more difficulties in the industrial and other sector unions, but Bill 80 is aimed at construction only. It must be therefore concluded that the government is participating in partisan politics by paying back the CLC and its sympathizers within the building trades. It also appears that with the government's confrontational "my way or the highway" approach to consultations, it is willing to spread whatever misinformation is necessary to justify this bill.

**Opinion:** Bill 80 is biased, discriminatory and an infringement on the democratic rights of a union to form its own rules and constitution. In order to restore its credibility on this issue, the government should withdraw the bill in its entirety. However, if the government insists on passing this piece of unnecessary legislation, I challenge it to include all unions. Let all rank-and-file members of all unions in Ontario enjoy your so-called democracy. The reason I include that is because I don't think it would go through if you included all unions, because they don't want it.

I would like to refer to one other article. This is a quote by Ontario Premier Bob Rae, who resents Prime Minister Brian Mulroney's "confrontational 'my way or the highway approach' to constitutional negotiations." How can this government operate and resent being dealt with in that way and turn around and deal with us in the same way when you would not let us consult with you? You never met with us. You held two years of meetings behind our backs with the people in favour of Bill 80 and then through closure reduced us to 20-minute presentations.

On behalf of Local 804, I'd like to thank the committee for its time. I also would ask you to please read it because there is far more information in there that I wouldn't have time to read and present.

**Mr Mahoney:** How much time have we got?

**The Acting Chair:** About three minutes total. You've got about one minute each, so if you can ask very quick questions, I'll allow one question.

**Mr Mahoney:** I could ask him really quick and get more than one in.

**Ms Murdock:** You can have our time.

**Mr Mahoney:** I'm not surprised. Thank you very much. So we get an extra half a minute.

We heard someone last week, one of the presenters in favour, say that if they had a choice, they would never give any money to Mr McCambly's organization, the Canadian Federation of Labour. We've heard that this is a battle between the CLC and the CFL in an attempt to

increase the membership in the CLC and bring people back into the fold. That of course would translate into a fair amount of money, I would think, not to mention power and influence.

We in opposition have tried to understand what it is that's driving this, promises made by Mr Mackenzie when he was doing the job I currently do as Labour critic in opposition and commitments that he made. Other than the fact that you've identified a full-time staffer from the Canadian Labour Congress, do you have any other evidence that would lend credibility that this indeed is important, because those people in support of the bill would have you say: "Do you think Bob White really cares about Bill 80 or really cares about the members in the construction trades, whether or not they belong? That's small potatoes to big-hitter Bob and it's not very important to him." Can you tell me your feelings?

1640

**Mr Keagan:** He probably doesn't care about us, but he certainly would like our money. That was very evident when he was president of the CAW and raided the UFCW and the fisheries in the Atlantic provinces. He didn't go through a vote of the membership. He went to an area representative, and through that representative scooped all their cash in the locals. Some of them have left since and gone back and had their own locals set up. Yes, he's interested in our money. Is he interested in us?

**Mr Mahoney:** How much money is involved?

**Mr Keagan:** I couldn't even begin to guess.

**Mr Mahoney:** Guess. What do you think?

**Mr Keagan:** I wouldn't want to. I really wouldn't. Probably hundreds of thousands of dollars.

**Mr Mahoney:** Hundreds of thousands of dollars?

**The Acting Chair:** I'm sorry, Mr Mahoney, you've eaten up way more than your minute.

**Mrs Witmer:** Thank you very much, Tom, for an excellent presentation. It's obvious that you've done a tremendous amount of research. I just have one question for you. Mr Cooper is in the room here. I wonder, if you had an opportunity to ask him one question and get a response, what question would you like to ask Mr Cooper.

*Interjection.*

**Mrs Witmer:** We're all from the same community.

**Mr Keagan:** Yes, I realize that, and Mike had a visit from us on Friday, I'm sure everyone knows.

I really don't know if I have a question for him. I had quite a meeting with him. At that time Mike explained to me that he couldn't understand the bill. At that time no one had brought it out. Even Mike Cooper didn't know much about it. It hadn't been discussed in caucus. He's shaking his head, but actually that's what he told me at the time.

**Mr Mahoney:** Is that what you said?

**The Acting Chair:** Mr Cooper had a question.

**Mr Keagan:** He's doing his job.

**Mr Mahoney:** Say it isn't true, Mike.

**Mr Cooper:** I did not say I did not understand the bill.

**Mr Keagan:** At that time you did, Mike.

**Mr Cooper:** When it first came out, I was having difficulty with it. I didn't know where it came from.

The one question I'd like to ask is, we keep having reference to the CLC. If everybody in the construction trades is opposed to Bill 80, why would they disaffiliate from the CFL and join the CLC?

**Mr Keagan:** I'm sorry, run that by me again, Mike, please.

**Mr Cooper:** There are constant references being made that this is a Bob White thing and that the construction trades will all go back to the CLC. Wouldn't they have to disaffiliate from the CFL and then at an election or a motion or something agree to affiliate with the CLC? If people are opposed to Bill 80, why would they do this?

**Mr Keagan:** That's right and that's where the successorship comes in. With that out, it takes a lot of it away, but it's my belief that successorship's in there. That's why Bill 80 was brought on, because then the sympathizers within the building trades could spend all their time attacking the other building trades unions and the CLC could spend all its time trying to take disaffiliation votes, which could be taken 365 days of the year. We'd be spending so much time defending ourselves we wouldn't have time to take care of normal business.

**Mr Cooper:** So the CLC thinks it's a non-issue.

**Mr Keagan:** I believe that with that out of the issue now, they're just trying to save face with what's left of the bill, because nothing in the bill has any substance.

**Mrs Witmer:** On a point of order, Mr Chair: I hear Mr Keagan saying that successorship is out. There's no guarantee that successorship is out.

**Mr Keagan:** That's right. That was my understanding.

**The Acting Chair:** Thank you, Mr Keagan, for coming before the committee. I know they will take your presentation into consideration. It has been most informative.

#### INTERNATIONAL UNION OF BRICKLAYERS AND ALLIED CRAFTSMEN

**The Acting Chair:** The next group to come before the committee is the International Union of Bricklayers and Allied Craftsmen, if they could come forward and if you could introduce yourself for the sake of Hansard.

**Mr Brian Strickland:** My name is Brian Strickland. I am the director of Canadian operations for the International Union of Bricklayers and Allied Craftsmen.

Some of the background to the international union is that we're the oldest continuously chartered craft union in North America, organized in 1865. The international union has over 425 chartered local unions throughout the United States and Canada, including 15 locals in Ontario. Five of the 15 locals in Ontario have charters that have been in existence for over 100 years. Over 5,000 members are represented by our locals in Ontario, and the work jurisdiction includes bricklayers, stonemasons, tile setters, terrazzo and mosaic workers, cement finishers, plasterers, refractory workers, marble masons, resilient floor layers and cleaners, pointers and caulkers.



BAC unions in Canada, including Ontario, are governed in their operation by three constitutions: (1) the international union constitution, (2) the Ontario provincial conference constitution and (3) their own local constitution. I didn't reproduce those constitutions for you, but they are on file with the secretary of the committee. These constitutions have been developed, perfected and followed over many years, and Bill 80, as written, will interfere with them.

The next page and a half deal with BAC's involvement with the International Labour Organization body and quotes statements of ILO principles, standards and procedures which are appended to this brief as exhibit 1.

If the members of the committee would turn to page 3 and go down to the third paragraph, in 1948 the freedom of association and protection of the right to organize convention, number 87, was adopted, and in the following year the right to organize and collective bargaining convention, number 98, was adopted. Those are the basic instruments concerning freedom of association adopted by the International Labour Conference.

ILO convention 87 is affixed to this brief and is shown in exhibit 2. I'd like to read to you a couple of excerpts from that particular convention, in particular dealing with freedom of association, article 3:

"Workers' and employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs.

"The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."

Article 8 of the same convention says:

"In exercising the rights provided for in this convention, workers and employers and their respective organizations, like other persons or organized collectivities, shall respect the law of the land.

"The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this convention."

It is my belief that the proposed Bill 80 is in violation of ILO convention 87. A complaint has been lodged by the Canadian building trades executive board with the appropriate authorities in Geneva. Responses to the complaint are attached as exhibit 3. Canada adopted ILO convention 87 in 1972.

Due to the time limitations placed on this presentation, I will comment briefly on general problems concerning the proposed legislation.

It is alleged that Bill 80 was introduced as legislation to increase democracy in the international building trades unions. To this day, I am not aware of the problems or grievances within the Bricklayers union or any other building trades union that this legislation would purportedly correct. I believe that any remedial legislation should clearly identify the wrongs that the statute is attempting to rectify.

I have heard that one of the reasons no examples of

wrongdoings have been documented is that there is a fear of retribution from the international unions if a local officer or a union is supportive of Bill 80. I am aware of two BAC officers who will be making presentations to this committee in support of this bill. I will say very clearly that I have had discussions with both of them fully reviewing our differences of opinion.

Freedom of opinion in relation to the exercise of trade union rights calls for a free flow of information, opinions and ideas, and workers' and employers' organizations should enjoy this freedom at their meetings, in their publications and in the course of other trade union activities without fear of retaliation. I fully support this philosophical statement.

As a basic right, locals within the BAC structure are democratic in nature, governed by written constitutions adopted by the majority of their voting membership.

A major concern that I have is that the thrust of Bill 80 is focused on construction unions. I do not see any justification in treating construction unions significantly differently than any other unions. International constitutions governing labour organizations in both the industrial and construction sectors generally reflect similar provisions in respect to trusteeship and discipline.

Attached to this brief is an excerpt from the international union, the Steelworkers' constitution, exhibit 4.

The legislation gives the Ontario Labour Relations Board a broad range of new powers, and taken together, the provisions of Bill 80 give the OLRB substantive powers that should rightfully be vested with the executive boards of all the construction trades unions.

#### 1650

If the committee would turn to page 6, please, the third paragraph down, the commencement of the bottom paragraph, in the background to this submission, I pointed out to the committee that BAC has 15 chartered locals in Ontario. Ten years ago, there were 23 locals and in order to improve member services, collective bargaining, efficiencies and industry stability, eight locals were merged into adjoining locals. All these mergers, with one exception, were involuntary mergers. All involuntarily merged locals had less than 100 members and had no full-time union representation. The procedures for mergers are found in the BAC international union constitution, article 16, and documented as exhibit 5.

These mergers were also supported by the Ontario provincial conference board and were reinforced by a resolution submitted by Local 10, Kingston, to the 68th convention of the Ontario provincial conference held in Windsor, and this is indexed in exhibit 6. The resolution was referred to the 69th convention in St Catharines and the following debate was approved, documented in exhibit 7.

In all instances, the mergers gave rise to full-time representation, better health, welfare, dental and pension funds, protected union security and gave rise to increased member participation on the local executive committee.

Section 138 modifies all the constitutions of the building trades unions. It removes from the parent union the power to control the jurisdiction of affiliated locals unless the locals consent to the exercise of this power. In



the absence of consent, it places this power in the hands of the OLRB. A more difficult problem arises from the fact that a local union is an economic entity. In order to have full-time staff, it must contain a sufficient member base to be financially viable.

As construction methods and location of projects change, certain locals grow and other decline. One of the functions of the parent unions has been to rationalize local jurisdiction so that locals remain viable entities. This problem was recognized by our union and was addressed by a committee of union members from across the two countries. This committee was formulated at the 1983 general board meeting, and the report was presented and adopted at the 1985 international union convention. A part of that report deals with restructuring and is appended to this brief as exhibit 8.

If decisions of mergers and jurisdiction are put in the hands of the OLRB, how will the board come to a rational decision on this matter? It will have to go through the same investigations and considerations as a parent union and will no doubt have to deal with the same complaints and challenges that a parent union has to deal with.

Supervision: BAC records show that over the past 100 years, there have been two cases of supervision over BAC locals in Ontario, and I recall the stats on other trusteeships, receiverships that were quoted by a previous delegate.

This legislation states very clearly that the OLRB must first consider the provisions of the trade union constitution and yet says it is not bound by it when determining just cause. The constitution of a local union and the parent sets out the relationship between the two, and as an incidence of membership, any individual member is entitled to have the constitution enforced on his or her behalf.

This legislation tends to negate any constitutional actions of a parent union in the area of supervision and replaces the constitution with a notion of just cause. The OLRB can say under this legislation that an act was done with just cause because constitutional provisions were followed. On the flip side of the coin, if the OLRB does not care for the provisions of the constitution, they can ignore it and substitute its own idea of what is deemed proper: tenuous to say the least.

Administration of benefit plans: The members of the 15 BAC locals in Ontario are covered by a myriad of benefit plans that cover health, welfare, pension, legal supplementary unemployment benefits and dental. Nine locals have 11 different plans and six locals have coverage under the auspices of the provincial health and/or dental plan. All locals have a joint labour-management board of trustees and formulate their own policies independent of the international union. Each local plan adopts its own procedures with respect to either the appointment or election of its trustees. The union trustees on the provincial plans are appointed by the Ontario provincial conference executive board. Article 17 of the current collective agreement makes reference to jointly trusted plans, exhibit 9.

The members of the BAC locals in Ontario also

participate in a pension fund entitled Bricklayers and Trowel Trades International Pension Fund Canada. In addition to the Ontario members participating, all BAC locals in Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick and at our tile local in Alberta participate. The plan is registered with Revenue Canada and also with the Pension Commission of Ontario. The relevant registration numbers are documented here.

The plan is a multi-employer pension plan and conforms to the definition outlined in chapter 35, section 1 of the Pension Benefits Act of Ontario. The pension act decrees that "if the pension plan is a multi-employee pension plan established pursuant to a collective agreement or a trust agreement a board of trustees appointed to the pension plan of a trust agreement establishing a pension plan of whom at least one half are representatives or members of the multi-employee pension plan and a majority of such representatives of the members shall be Canadian citizens or landed immigrants."

The joint labour-management board of trustees of IPF Canada are six in number, four of whom are Canadians and Ontario residents. Additionally, the fund has an advisory board consisting of employer and employee representatives from the six provinces that participate in the pension fund.

The proposed legislation, in particular 138.7(3), states: "If benefits under a plan described in subsection (2) are provided to members of trade unions outside of Ontario or to their dependants or beneficiaries local trade unions are entitled to appoint a number of trustees that is at least proportionate to their member numbers in the plan exclusive of trustees appointed by or on behalf of employers."

Such a trustee structure as envisaged by this legislation is impracticable and unnecessary. Full review and consultation on behalf of all participating employers and employees is working effectively and efficiently. IPF Canada has grown to \$53 million in assets and provides over \$2 million annually in benefits to members and their families. This proposal would dramatically increase the number of trustees, both employer and employee, and would be expensive and inefficient. There's an old adage, "If it ain't broke, don't fix it."

I would respectfully ask the members of this committee, what incident or complaint triggered this piece of legislation? From a practical and rational viewpoint, it would seem to me that if the minister's concerned that a problem exists, then he or his designate should sit down with the concerned organizations and find ways of correcting the situation. The Bricklayers are always open for dialogue with government, and if there are or have been concerns expressed to government with respect to our pension fund, then we would be only too willing to sit down and address them. I don't feel this legislation is addressing a problem but rather creating one.

In conclusion, notwithstanding that all my comments are essentially negative towards Bill 80, I believe that a compromise could be reached. I support the brief presented to you by the Canadian building trades executive board and suggest that the recommendations contained therein can be adopted.

**The Acting Chair:** Thank you, Mr Strickland. We have, by the looks of it, about six minutes, so I will start this time with Ms Witmer.

**Mrs Witmer:** Brian, it's an excellent brief that you have presented here and we certainly will be able to use the information if we have a chance to debate the legislation further in the House. You indicated here you're not sure what incident or what complaint triggered this piece of legislation.

**Mr Strickland:** No.

1700

**Mrs Witmer:** We've asked this question. I've asked Mr Mackenzie time and time again. In fact, for months I didn't get an answer and then there was an attempt by the parliamentary assistant to respond. What do you think really happened?

**Mr Strickland:** I wish I knew. We met with Mr Mackenzie I guess it would be over a year ago and asked him the same question: What triggered this?

As far as I'm concerned, with respect to the Bricklayers, we've never had a great deal of problems within our organization. We've had two trusteeships in over 100 years, and in both instances the first one was brought about by provincial bargaining when a local wouldn't come along with us and it was put under receivership, and in both instances the business manager was kept on. I've never had cause to have any complaint lodged against myself or our organization with respect to any pension legislation on a pension plan we've had, or any fringe benefit plan. They're all jointly trusteesd by members of the local unions and management.

I really don't know. I have heard that there were some incidents, I don't know how many years ago, 15 years ago, with a Labourers' union in London, and I've heard of some problems with, I think it was, an Iron Workers' local. I really don't know what brought it about. There were all kinds of rumours. You've heard some of it being discussed by the previous delegation, about some suggested input from the now president of the Canadian Labour Congress. I really can't say that's a fact. I really don't know.

**Mrs Witmer:** If there were problems, I think, as you indicated, it's unfortunate that they couldn't have been resolved through dialogue, as opposed to putting before us a piece of legislation which unfortunately does have the potential to divide the industry and to contribute to some further chaos.

My final question to you is, what do you find the most offensive about Bill 80 and absolutely needs to be removed? I want to tell you, there is no guarantee that those amendments that have been talked about will be made. What is the most offensive and must go?

**Mr Strickland:** I think it's most offensive, for example, that there are some examples being brought before the provincial government of domineering by an international union and probably everybody's being tarred with the same brush. I think it's enunciated quite clearly here. I firmly believe it's a contravention of ILO convention 87.

I also think it's rather abusive, an abuse of powers by

the New Democratic Party, to simply focus on construction unions. There are all kinds of examples that we could bring to this committee's attention, and obviously to the government's attention, of other heavy-handedness within industrial unions. But I certainly don't want to say to you, as a committee, do it to the industrial unions as well, because they'd sooner be without it too. Isn't that right, Mr Cooper?

**Mr Mahoney:** That might kill it.

**Mr Cooper:** Brian, I want to commend you for your presentation and commend your union. Obviously you don't seem to have too many problems.

**Mr Strickland:** I don't know. There's a couple who are going to be speaking after me, Mike.

**Mr Cooper:** Internally in your union, from your presentation, it doesn't appear that there are too many problems, and I would suggest that Bill 80 isn't going to affect you. I think if you look at a lot of legislation that does happen, such as Bill 40, everybody was talking about the chaos it would create in the manufacturing sector, but basically most people settled their contracts without going on strike. I think internally in your union you do settle most of your problems without having these problems. I would suspect in most cases Bill 80 will never be brought into the process and the international will be doing it internally.

**Mr Strickland:** I'm not so sure if you're right, Mike—I'm sorry, Mr Cooper. I don't think you can just say, "Brian, it's not going to affect you." When you look at it in total, rather than just say, "It's not going to affect you," or "It's not going to affect another international union," I just don't see it. I think it's a blatant intrusion on internal constitutions. I really do.

**Mr Cooper:** I realize we have that difference, but in fairness to Mr Mahoney, I think we should carry on to him. I don't know exactly what's going on in the House right now and we might be called in at any moment.

**Mr Mahoney:** Thank you very much for your presentation. Along with several others, it's very detailed and very helpful for us to understand the issue.

Dispute settlement is something that concerns me. Currently the situation, as I understand it, is that if there is a geographical dispute or a work dispute, that would be settled by the international, which would come in and sort this thing out. If that kind of thing happens after Bill 80 is passed, how do you see dispute settlement working?

**Mr Strickland:** I would say probably the authority that flows through us under the constitution will be taken away and that it probably would mean appearances before the OLRB on all of these issues. Obviously our work jurisdiction usually ends up there anyway.

**Mr Mahoney:** It says, as I understand it, that a dispute could still be settled by the international if there's agreement by both parties.

**Mr Strickland:** Exactly.

**Mr Mahoney:** Would you see that kind of thing happening on a practical level? If one local has claimed the work, as an example, why would it then put at risk that claim and voluntarily agree to the international making a decision?



**Mr Strickland:** Would I see it be expanded to the OLRB, you're saying?

**Mr Mahoney:** No. I'm saying, would you see the parties agreeing to an international referee to the union making the decision, or would they dig their heels in?

What I'm concerned about is sort of the civil war that we've heard as a possibility in this thing when you take out an impartial judge and you put in a government agency—which presumably would be impartial; I wouldn't dispute that—but I just think of the length of time. The job would be over by the time the OLRB made a decision on it. I don't see how this is going to be smoothed out.

**Mr Strickland:** Mr Mahoney, if a couple of international union representatives had come to a decision on a jurisdictional dispute and if there was an alternative there for a local union to challenge that agreement before the OLRB, if they were the dissatisfied party, I would assume that's where it's going to end up.

**Mr Mahoney:** Do I have any time left?

**The Acting Chair:** Very quickly then, please.

**Mr Mahoney:** Could you touch on the pension issue? We've heard allegations of missing moneys and all kinds of problems. The proponents of the bill sort of wrap themselves in the Canadian flag and we're all anti-Canadian, I suppose, if we're against the bill. That's what you get thrown at you. What are your thoughts on the pension fund?

**Mr Strickland:** Our pension fund was developed over 20 years ago. All our trustees—we have six trustees, four of whom are Canadian and four of whom are Ontario residents. All our money is invested, with the exception of the foreign investments we're allowed by law, in Canada. Our money manager is in Canada, our board of trustees meets on a Canadian basis, the membership is kept informed by the annual audit and also by reports to conventions. I've had no complaints about the pension, with only the exception that we don't pay enough. That's a general complaint anyway.

**Mr Mahoney:** Thank you very much.

**The Acting Chair:** Thank you, Mr Strickland, for coming before the committee with a very insightful presentation.

I'm in a bit of a quandary here as to whether to proceed. We are expecting a vote momentarily in the House and I would hate having somebody just nicely get in full flight and shut them down.

**Mr Mahoney:** Mr Chairman, I don't think it matters anyway. You've already invoked closure, so let's hear them.

#### INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1788

**The Acting Chair:** It seems to be carrying on; there seems to be some discussion in the House, so I would ask that the International Brotherhood of Electrical Workers, Local 1788, come forward.

While they're coming forward, for those of you who are sitting here and who are booked, you should know that there will be a vote in the House some time in the

next few moments. It's my understanding that it's going to be a five-minute bell, so the members will have to leave almost immediately, and when the vote is completed and as soon as the members get back we will pick up where we left off and carry on with the list. I know that could create some inconvenience for some people, but unfortunately, when the bells ring, we must attend the House.

I welcome you here to the committee, if you could introduce yourself and the gentleman with you for the purposes of Hansard and for the committee members and start your presentation, knowing full well that when the bells ring I will have to interrupt you. I apologize in advance for that.

**Mr John Sprackett:** I'm John Sprackett and I'm business manager of Local 1788 of the IBEW. I'm also the president of the Electrical Power Systems Construction Association of Ontario within the IBEW. I'll let my colleagues here identify themselves.

**Mr Tom MacLean:** My name's Tom MacLean. I'm currently the vice-president of Local 1788.

**Mr Jim Frolick:** My name is Jim Frolick. I am representing myself and not my home local, IBEW Local 303 in St Catharines. I have been an IBEW member for 27 years and held office until three weeks ago, till I was removed.

**The Acting Chair:** Thank you. You can continue on now with your presentation.

#### 1710

**Mr Sprackett:** I'd like to thank the government and the committee very much for allowing us this time to speak. We'll make it as quick as possible. We have prepared a brief, but we won't read it to you. We urge you to take the time to look through it. We don't have time to cover every point in the brief in our verbal presentation.

Local 1788 is a province-wide local union. We do construction industry work in the electrical power system sector. Most of that work is done by Ontario Hydro, and some of it is for Ontario Hydro through contractors. We supply contractors under our transmission systems agreement and we supply all direct-hire Ontario Hydro electrical construction employees. That includes about 1,300 members, 900 of those being electricians and apprentices, and the remaining 400 linemen apprentices and groundmen.

Over the past year or so we have discussed this bill a lot within our local union. We have, at local union meetings across the province, voted to support this bill unanimously. That support was reconfirmed at a meeting here a month ago that we held in a central location. Remember, we are a province-wide Ontario local. We had 503 members come out and renew their support for this bill, which is an excellent show of support for this bill when we're spread out geographically from border to border across this province.

The members in our local union have sent letters to all MPPs and the Premier on a couple of occasions in support of the bill. The bill's made up of two main components. One is the disaffiliation language, which



we're now told is likely to be removed. This would have allowed for local unions of one particular trade across the province to collectively decide to choose the organization that would represent them. That is currently almost impossible.

Local 1788 supported the disaffiliation language in the bill. However, even in the revised version, with that language deleted, Local 1788 can continue to support the bill, providing the other sections remain strong.

The other sections form a package. If you have to live within an organization—and understand that Local 1788 has had no interest in leaving the IBEW. But if you do not have the opportunity to leave under any circumstance, basically you must have some rules of fairness to allow participation for members of the local union in their local union.

This package in Bill 80 would include a provision around bargaining rights or shared bargaining rights when those bargaining rights are held by the internationals. It would provide for just cause, the test of just cause being demonstrated prior to changing a local union's jurisdiction without its consent. It would require the demonstration of just cause in the situation where locals are put under trusteeship by their internationals or local union elected officers are removed from their offices, such as my colleague Jim Frolick here was just recently. It would also provide for better participation in benefit plans.

The constitutions of the international unions provide wide-ranging powers to the international president and his delegates. The reliance of the member on fair play within the organization depends totally on the benevolence of the international president.

I've enclosed in our brief, in the first section, a copy of our constitution, some highlighted portions of that—and I wish you'd take a look at it—to show the authority that the international president of our organization has. The bill would only provide that in exercising that authority, the international president be prepared to demonstrate just cause for his actions. International unions, all unions, should embrace these principles of fairness.

I'll go through the sections of the bill.

**Bargaining rights, 138.2:** In the ICI sector, province-wide bargaining has been in place since 1978. Those workers in that sector enjoy shared bargaining rights through legislation now. In the electrical power systems sector, as in other sectors, that's not the case. In the power sector, which makes up about 20% of the construction industry, 50% of the construction workers under collective agreements do not get a vote on their collective agreement. They do not participate in the bargaining process for their collective agreement. They're not included in the ratification process. It kind of makes the term "collective bargaining" ring hollow.

Bill 80 will ensure that workers, members of local unions, will be allowed to participate in the collective bargaining process by sharing bargaining rights with their internationals.

In 1984, the general presidents maintenance assist agreement was implemented at Ontario Hydro, an agree-

ment between the international IBEW, along with other trades, and Ontario Hydro. This was done without the consent of the local unions and without the participation of the local unions in the negotiations. It set substandard wages and working conditions and benefits for employees. This agreement was used by the internationals to move in under the guise of moving in on maintenance work contracted out by Ontario Hydro.

The scope of this collective agreement overlapped with existing construction collective agreements and led to a number of disputes between the construction locals and the employer over construction versus maintenance work and which international agreement applied, so it created a lot of chaos in the industry. On the other end of things, CUPE 1000 looked at it as an attack on its territory by the international unions. Eventually, after a lot of disputes, the agreement was shelved, but even today the relationship between CUPE 1000 members who do the maintenance work and the construction union members is tenuous at best.

**Jurisdiction, 138.3:** It must be required of the internationals to show just cause prior to changing a local union's jurisdiction. If jurisdiction of a local union can be changed without consultation, without just cause, the local union is at the mercy and under complete control of the international. Local 1788 is facing that exact problem right now.

Up until 1982, Local 1788 was the only IBEW local union that had any bargaining rights in the power sector. We had a direct collective agreement with Ontario Hydro for direct-hire employees. In 1982, that bargaining relationship changed and Ontario Hydro agreed that all subcontracted work as well would be done under the IBEW collective agreements. The international was the driving force in this arrangement.

The arrangement and the subsequent collective agreements that resulted provided that contracted work on the large generation projects would be done by the regional IBEW local unions around the province. The direct-hire Ontario Hydro employees on the generation projects would continue to be Local 1788. On the transmission systems, which is the transformer stations, the transmission lines and so on that you see, all work was solely under the jurisdiction of Local 1788. Those collective agreements were approved by the internationals. The internationals were participants in the negotiation of those collective agreements.

In 1989, after a lot of discussion, seven years, as a matter of fact, the international changed the Local 1788 bylaw, the jurisdiction bylaw, to reflect this practice. I would urge you to take a look at that section in the brief. It's section III. It outlines our jurisdiction as approved by the international. There's some lead-up correspondence to the actual wording. The second letter is the preface to the bylaw.

**The Acting Chair:** I have to apologize, but the bells have started to ring. I believe it's going to be a five-minute bell.

**Mr Mahoney:** Should the deputation hang around?

**The Acting Chair:** I will have to recess the commit-

tee until the voting procedure is over, at which time we will once again come back and sit in session and hear the rest of your brief.

**Mr Sprackett:** Any estimate on how long that might take?

**The Acting Chair:** It can take anywhere from five minutes to half an hour.

**Mr Mahoney:** It's usually 15 to 20 minutes.

*The committee recessed from 1722 to 1757.*

**The Acting Chair (Mr Paul Klopp):** We'll resume the presentation. There are approximately four minutes left for Local 1788 to finish up, and then we'll carry on. You have approximately four minutes of the original 20 minutes.

**Mr Sprackett:** If I could be allowed a little leeway, because of the interruption, just to recap where I was, we were on section III in the appendices and I wanted to point out the approved bylaw from March 1989 that was the result of much discussion.

If you look at the bottom of the first paragraph of that bylaw, it's describing the jurisdiction of Local 1788 and says, in the fourth sentence from the bottom of the first paragraph, "Employees of Ontario Hydro and all outside and inside work done by the Electrical Power Systems Construction Association on Ontario Hydro property for the transmission systems and miscellaneous hydraulic projects of Ontario Hydro." That includes all contractors under the Electrical Power Systems Construction Association in Local 1788 jurisdiction.

There was no challenge to that jurisdiction until 1992. Now the international is saying that Local 1788 has no contractor jurisdiction at all, and in fact the international is taking jobs away from Local 1788 right now and giving those jobs to members of other IBEW local unions in the province. We've been given no reason whatsoever. We've asked.

But I can tell you that about six, eight months prior to Ken Woods putting us on notice that he was going to amputate portions of our jurisdiction, we ran a candidate, the business manager of our local union at that time, Joseph Mulhall, for an international office. He ran for the international executive, he was narrowly defeated by the incumbent, and six months later we were put on notice that portions of our jurisdiction were going to be taken away and given to other local unions.

This is just unacceptable to Local 1788 members, to have their livelihoods taken away and given to others with absolutely no justification whatsoever. We asked for the opportunity to have these types of problems heard at the Ontario Labour Relations Board, the appropriate, knowledgeable, experienced body in construction affairs. We asked to have a third party that's impartial deal with these issues and render decisions.

I've been directed, as business manager, to cease claims for all this work by the international office. The international recruited letters, as was included in Ken Woods's presentation, from the other local unions, disputing Local 1788's jurisdiction over the work. He admitted that he recruited those letters, and the benefits to these local unions are obvious. They will gain jobs at

Local 1788's expense; they will gain a dues base at Local 1788's expense. Many of these local unions don't even have linemen in their membership.

I'll pump it up here a little. There are a couple of important points I've got to get to.

When we received notice that our jurisdiction was under attack, we requested meetings with other local union executive boards. We met with St Catharines Local 303 executive board; they granted us an audience. Jim Frolick—I spelled his name wrong in the brief; I apologize to him—is the chairman of the executive board. They subsequently wrote a letter to Ken Woods supporting our position on our jurisdiction and asked Ken Woods to review his position.

Subsequently, the whole executive board was put under charges, was convicted, and Jim Frolick was removed from office three weeks ago. He is barred from office. He's barred from attending union meetings for a three-year period. The same thing happened in Windsor local. The president of the local union, for simply granting an audience to a delegation from Local 1788 to come and outline this problem, has been charged. He is awaiting the verdict from the international vice-president now.

Where's the recourse for these people? There is no recourse now internally within the IBEW. The appeals process does not work. You don't even get to attend your appeal. You do a written submission and you send it off to the same international that just removed you from office.

**The Acting Chair:** I appreciate your excitement for the bill. I apologize that we did get cut off. I allowed a little bit more leeway—I hope everybody allows that—but we really do need to cut it off.

**Mr Mahoney:** Could we have one question each?

**The Acting Chair:** If that's okay with all parties, that's fine with me.

**Ms Murdock:** As long as you don't take five minutes to ask.

**Mr Sprackett:** If I might, I won't extend my presentation, but I didn't get a chance to get through my stuff. I would beg you to read this brief.

**The Acting Chair:** For sure. Okay, one question each very quickly.

**Mr Mahoney:** You realize it's because of the government's closure motion that you're not getting a chance to get through your stuff.

**Mr Sprackett:** And you used up a lot of time talking about it earlier.

*Interjection.*

**Mr Mahoney:** Don't duck it. That's exactly why it is.

Can I ask the question? Very simply, would you support an amendment to make this bill, which is going to pass, complaint-driven? You say there's no recourse, and I appreciate your concerns there. If Jim, for example, were allowed to file a complaint with the government over his treatment and be given a hearing at the labour board, would you support that kind of amendment?

**Mr Sprackett:** Under the jurisdiction section, I would not. I wouldn't have a problem with it being a complaint-



driven system as long as, if there is a complaint, no jurisdiction changes hands until that complaint is heard.

**Mr Mahoney:** You would support the amendment that's been put forward then, just to be clear, which is to make it a complaint-driven process.

**Mr Sprckett:** I haven't seen an amendment to that effect.

**Mr Mahoney:** It was put forward by Joe Maloney and his people.

**Mr Sprckett:** Oh, no. That amendment would make it strictly a complaint-driven process and the jurisdiction change could take place prior, regardless of the complaint.

**Mr Mahoney:** So you come down in the middle of that. As long as the status quo were maintained while a complaint was being heard, you wouldn't have any problem with that.

**Mr Sprckett:** That's right, and the criteria remain the same.

**The Acting Chair:** Any questions from anybody else? Thank you very much for your presentation. Again we apologize for the interruption, but I think your points were taken, and everybody does read these briefs.

**Mr Mahoney:** We take them to bed with us.

**Ms Murdock:** Some of us do.

**Mr Sprckett:** Thank you.

#### INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 793

**The Acting Chair:** We'll call on the next presenter, the International Union of Operating Engineers, Local 793, which is represented today by Richard Kennedy, who is the president. Would you please come forward and state your name and your official position to get on the record in case I made a mistake, sir?

**Mr Mahoney:** Mr Chairman, before they start, could I just point out, further to our conversations earlier, that I have to leave. I'm sure you're disappointed. It's not because I don't wish to hear; I do wish to hear. Ms Fawcett will be staying, and if I can come back, I will.

**The Acting Chair:** Thank you very much. The Chair will allow you to go.

**Mr Mahoney:** I don't much care if you allow that; I'm just putting it on the record.

**The Acting Chair:** Mr Kennedy, as I said, you have about 20 minutes, and I'll try to be as fair as possible.

**Mr Richard Kennedy:** I'd just like to say that we have presented a small brief. I'm not going to read from that brief—it would take all of the 20 minutes and then some to go through it—but, like the other participants, I urge you to read it. I'd like to summarize that brief. I'm going to speak briefly on some of the issues raised by some of the previous presenters and make a specific comment re one of the amendments.

My name is Richard Kennedy. I'm the president and assistant business manager of the International Union of Operating Engineers, Local 793. I'm a 21-year member and third-generation operating engineer. We have representatives of our local here: our business manager,

various executive board members. We are a provincial local representing 8,500 members from border to border. We employ, as a union, approximately 125 people. We not only represent workers in all the recognized sectors of the construction industry, but also in many other sectors, including municipal employees, waste disposal, utility contractors and so on, so you would have to call us a very multisector union. We are members of all the regional Ontario and Canadian building trades.

We are known as a training local. Our commitment to training is evident. We have just purchased a brand-new, 66,000-square-foot facility situated on 130 acres near the St Lawrence River. It features classrooms, libraries, lecture halls, offices, and room and board facilities in order to facilitate a learning environment for the students, this industry and the province for many years.

We are a very strong, stable, conservative organization. We cannot sit here and tell you tales of abuse of privilege by our international. That said, Local 793 is totally in favour of Bill 80 as originally proposed. What is wrong with a made-in-Canada democracy guided by a set of minimum standards?

We are a democratic union. We hold 17 district monthly meetings per month, plus two special-called and two general membership meetings per year. At each of these district meetings, the previous monthly meeting minutes and the executive board minutes are read out, corrected and/or adopted and approved, a total of 206 scheduled meetings per year. This is the grass-roots process by which the members of Local 793 have endorsed their overwhelming support of Bill 80.

#### 1810

Anti-Bill 80 presenters have asked you to throw out or water down this legislation. We ask that you endorse this legislation in its entirety. Bill 80 is about freedom of speech, choice and association. It is not, as you have been told, about the restrictions of these said freedoms. Our members have no meaningful say in where their per capita tax dollars are spent. Some 35% of our monthly dues paid by Local 793 members goes directly to the international union. Our members deserve a meaningful say in how their Canadian dollars are spent.

There have been a number of specific comments made by anti-bill presenters which I would like to deal with. The first one is that the Ontario Labour Relations Act, through sections 105, 108 and 120, has all of the powers to deal with the issues Bill 80 is supposed to address.

I ask you to turn to exhibit 1. This is a letter from Jack Slaughter, who receives recognition from the then chairman of the OLRB, now Chief Justice George Adams, for his contribution and research into the publication known as Canadian Labour Law. It is a very comprehensive review of Canadian labour law. Mr Slaughter, now our in-house counsel, states that these clauses have little or no substantive impact on the OLRB's ability to act on the matters presented in Bill 80.

Number two, the Labour Relations Act has adequate mechanisms to deal with trusteeships. Exhibit 2 from the previously mentioned Canadian Labour Law book states, and I quote from the emphasized portions, numbers 6 and



7—I won't quote that. They are emphasized on that page, and I'll have you read them at your own leisure.

We have heard of chaos and economic instability as a result of this legislation. As I previously stated, we are a provincial local. We administer all of our collective agreements in force in Ontario. We negotiate singularly almost every agreement that our members work under. We see no economic instability or chaos coming as a result of this continuing.

We've been told, number one, that the courts have been reluctant to delve into fraternal organizations' constitutions and, number two, that after extensive research, the constitutions and bylaws of industrial unions were found to be fundamentally the same as those of construction unions. To tend to the first part of this, I'll quote from the emphasized portion of exhibit 3, which is from a very recent OLRB decision regarding a merger:

"The fact is that while at common law a trade union may still be only a voluntary association, under the Labour Relations Act it is much more than that, and when considering the acquisition, exercise of transfer of rights rooted in the statute, one cannot ignore either the practical or legal differences."

From the bottom of exhibit 3, from in this case the local's bylaws and constitution: "A special convention shall be called by the executive board of the local if a merger or similar move is considered by the international or the local."

In this OLRB case, which involves the United Food and Commercial Workers International Union, retail workers, the department store union and the Steelworkers, are quoted 16 separate, different cases where the locals' constitutions and bylaws were adhered to as they pertained to mergers and amalgamations. I would suggest to you that the research they conducted was selective, not extensive.

While on the point of the differences between industrial and construction unions, I would like to point out that a previous speaker today hammered away at how industrial unions' pensions had been abused, but not the building trades' pensions. I might remind you that multi-employer pension plans come under a much more stringent guideline than single employer, industrial-type plans. These pensions, for the most part, are employer-dominated and not jointly trustee—a significant difference.

In the interest of conservation, I have not given you the full board case that I quoted from. It's some 47 or so pages. Any of you who would like that to verify or look at that case, I will supply it.

The complaint-driven legislation: We could agree to this if long enough notice was given. As the grieving local would then have the burden of proof on it, the standard 15-day expedited hearing is not enough time to find out the true and full nature of the complaint, do your research, get your lawyers on stream and, along with that, prove the case that you are grieving, which is the burden of proof. The time limits must be extended beyond the 15 days.

On behalf of the members of Local 793, we thank you

for the opportunity to address this committee. We urge you to support the principles of the democratic process embodied in Bill 80. I would also like to thank the government for having the foresight to introduce this progressive legislation. I thank you for your attention.

**The Acting Chair:** Thank you, sir. We will now entertain questions.

**Mrs Joan M. Fawcett (Northumberland):** Thank you for coming and presenting your views. Do your people work in other provinces or other countries?

**Mr Kennedy:** Yes, they work in other provinces.

**Mrs Fawcett:** Do you see, with the passage of Bill 80, any problems then with your people wanting to go out of Ontario to work? Will this restrict you in any way?

**Mr Kennedy:** The only restriction on that will come from the internationals. We do have a national agreement that we work under that has a provision for taking people, through that particular collective agreement, across Canada. That's a Pipeline collective agreement.

But I don't think that's really the issue at hand. The issue is that people have talked about getting people work in the United States. It wasn't too many years ago that the flow was all this way into southern Ontario, bringing workers from all over the place into this province and into this country. That may affect it. I would have to say that would be solely up to the international. They would be able to control whether people were accepted by other than Ontario locals.

**Mrs Fawcett:** If there was some opposition then, would you be able to hopefully do something about that? Would you then be restricted? Do you feel you could put forward a good argument and a good case?

**Mr Kennedy:** Short of withholding per cap tax, no.

**The Acting Chair:** Any other questions? There is time.

**Ms Murdock:** It's sort of interesting, because so far all of the people who have come out in favour of Bill 80, when they tell their stories, basically have had just horror stories occur between them and their international. Yet I'm getting this distinct feeling from your presentation—and I'm a quick reader, so I have read the presentation—that you have a very good working relationship.

**Mr Kennedy:** Well, I'll say it could be better. They do not interfere with our collective bargaining. They do not interfere with our pension or benefit plans that we administer on behalf of our members. Our members don't know who our international is.

**Ms Murdock:** Don't know—sorry?

**Mr Kennedy:** Who our international is; they know Local 793.

**Ms Murdock:** So you have a lot of Canadian—I mean, it's basically not owned and operated, but it's operated out of Ontario, yours?

**Mr Kennedy:** Yes.

**Ms Murdock:** And your pension plan has your own representatives?

**Mr Kennedy:** Solely.

**Ms Murdock:** There are amendments being proposed,

and I don't know if you know, because there is no indication from here as to whether or not—

**Mr Kennedy:** I've read them.

**Ms Murdock:** Do you see that if a union, a local, has a good working relationship with its international—I know that a lot of them have moved towards getting more Canadian representation on their international side and so on while others have not—if that's the case, in the provisions of this bill, Bill 80, where would you see a problem arising in terms of changes to a constitution with an international?

**Mr Kennedy:** I'm not sure I get your question.

**Ms Murdock:** For instance, I can see that there would be a change, say, in the pension plan. If your constitution was such that you didn't have Canadian representation and trustees, then obviously Bill 80 would require a change to the constitution, right?

**Mr Kennedy:** You're talking about the unevenness of a constitution, one jurisdiction over another jurisdiction, or are you talking about the actual problems that would—

**Ms Murdock:** The problems that would ensue.

**Mr Kennedy:** I'm probably the wrong person to ask that because we don't have an international plan that our members work under. I can see some administrative problems, but I don't think it would be any more than any other administrative problem that we run into on a day-to-day basis. But I'm still not quite sure what the question is.

1820

**Ms Murdock:** That's okay. My own feeling of this is that I would think if you have a good working relationship and there isn't a problem, with the exception of the trustee section, you would really not ever have recourse to the amendments as they will be put forward. But if, on the other hand, you do not have a good working relationship with your international, then you would probably use the sections of the act a lot more often.

**Mr Kennedy:** That's right.

**The Acting Chair:** We have one question from Mr Cooper.

**Mr Cooper:** We seem to have a fair bit of time here left for questioning, so being as the other presenters in most cases didn't have a lot of time, how long are the jobs that the unions go out and do? Are we talking short-term, some of them only last three months, some of them 10 years?

**Mr Kennedy:** In many, many instances, we're in the crane, bulldozer, back hoe; that's primarily where we make our living. We are multisectoral, as I said. But in the crane and small back hoe industry, it could be hour to hour. They're out there putting an air-conditioner on the top of this building now and putting up some steel somewhere else in the afternoon. We also have multifaceted jobs: Ontario Hydro, Darlington. But in general, when you get away from the downtown type of job, the industrial-commercial-type job, they're more of a short-term, ranging three to four months.

**Mr Cooper:** So, technically, under the appeal process through the constitution, the job would be done before

you got through the appeal if there was a jurisdictional dispute.

**Mr Kennedy:** In most cases it would be, yes.

**The Acting Chair:** Go ahead, Ms Murdock.

**Ms Murdock:** If I may on that point, was it the Sheet Metal Workers who were here the other day, who said that by the time they would have gone through all of their appeals it would have been well over four years, something like that? They make the appeal and then they go to the general president.

**Mr Kennedy:** Our general convention is every five years, and if you had to get to the appeal process, depending on the timing of any charges or any appeals, if you had to go to an appeal it could be up to five years if you made it in that time frame, but if you just missed that time frame to appeal it, from the time the charges were first laid it could be much longer than that.

**Ms Murdock:** So you would, if the complaint-driven system was used, be also in favour of no change in jurisdiction, work sector or whatever until after the decision is made by the OLRB.

**Mr Kennedy:** That's right. Further to that, on the jurisdiction, there have been comments made about charging officers and trusteeships and so on. I don't ever expect it to happen, but when you're sitting on the outside looking in, you have no resources to use. I think that should be taken under consideration. If I, as the president, was removed from office, I have no resource except my own pocketbook to defend my actions. There's why just cause and notice should come in.

**The Acting Chair:** Any other questions? We can gain a little bit of time here, but I don't want to rush anybody. Everybody is happy, all sides? Okay, thank you, sir, for taking the time to come out. I'm sure you'll follow this bill with interest as it moves along.

#### INTERNATIONAL UNION OF BRICKLAYERS AND ALLIED CRAFTSMEN, LOCAL 5

**The Acting Chair:** Our next presenter is the International Union of Bricklayers and Allied Craftsmen, Local 5, John Haggis, business manager, Bob Forbes and George King. Could you please get yourselves on record in Hansard, introduce yourselves, state your position and then get into your brief. You've got 20 minutes.

**Mr John Haggis:** First of all, I apologize for not having a large brief like most of the current presenters, but this will be short and sweet. My name is John Haggis, business manager of Local 5, International Union of Bricklayers and Allied Craftsmen, London, Ontario. We are one of those local unions in the Bricklayers that have been around for over 100 years.

I have brought with me two other members of Local 5, who I will ask to introduce themselves so everyone can see that they can speak up at any time if they disagree with what I'm saying or if later you wish to ask them a question.

**Mr George King:** George King, the former business agent for Local 5.

**Mr Robert Forbes:** Bob Forbes, the present president of Local 5.



**Mr Haggis:** We are here today on behalf of Local 5, IUBAC, with a present membership of 340 brothers, to speak in favour of Bill 80. Although we have now and have had in the past a good working relationship with our international, and in particular our Canadian director, Brian Strickland, there is a dark cloud over our head. This cloud is called regionalization.

As you may have heard earlier, my friend and brother Brian Strickland mentioned that as far as the Bricklayers are concerned, there have been few trusteeships imposed here in Canada or Ontario without the consent of the local union first. All that is about to change. That change is our international's plan and mandate to implement regionalization here in Ontario with our 15 local unions.

Regionalization has been implemented in approximately 60% of the BAC, Bricklayers and Allied Craftsmen, in North America. Some of these mergers have been done smoothly and have been received well, whereas some have not been received well, with local union opposition. In some areas, 16 locals have been merged into one and in other cases there have been more local unions being clustered together into area district councils.

There is said to have been plenty of consultation before this took place, but with or without consultation, regionalization was most definitely going to be implemented, even if the local union strongly opposed it. Last June, at our provincial convention here in Ontario, we were told by our Canadian director that regionalization was to be implemented here in Ontario by January 1994. This date has since been moved back, and I firmly and gratefully credit this to Bill 80 and its democratic belief that local unions must be treated as partners by the parent union, not children.

This type of legislation is long overdue, and for the life of me I cannot see why anyone would oppose a bill which would allow local unions the autonomy and security they deserve. I would understand their right for freedom of speech and thought, if it was not a thought or speech that was dictated to them by someone they feared. We look at Bill 80 as insurance for our local autonomy. Like automobile insurance, you hope never to have to use it while operating that vehicle, but if there was to be an accident, it would be there for your wellbeing and the wellbeing of others affected.

In Canada, we as bricklayers do not have an elected Canadian to represent us. Brian Strickland is both a friend and a competent leader as our director of Canadian affairs, but our right to elect him or his successor was taken away from us by our international. He is here today speaking against Bill 80, not because we the workers asked him but because his job title dictates him to do so.

Letters have also been sent by our provincial bargaining unit, the Ontario Provincial Conference of Bricklayers and Allied Craftsmen, in opposition to Bill 80. I see our secretary-treasurer, Jerry Coelho, is also here to speak to you later. We did not ask them or give them permission or direction to speak on behalf of us. Business managers do not have the authority or the right to make decisions that would jeopardize the autonomy of the very charter they were sworn to protect. To quote my president, "Those guys in Washington at the IU and the OPC work

for us; we don't work for them."

**1830**

Last but not least, during second reading of Bill 80, Steve Mahoney stated that he would like to see where all these supporters of Bill 80 are. I was very pleased when I saw Steve Mahoney show up at the last provincial building trades convention, where he once again commented, "Looking forward to all the debate coming up on Bill 80." Unfortunately and conveniently, and now I see repeatedly, he left just before the debate started, because there was plenty of debate and support for Bill 80 there on the floor of the convention centre.

But the really important feelings are not just at conventions; they are in the trenches with the unionized working men and women, in the local union halls around Ontario and on job sites where the word "democracy" means the passing of Bill 80.

Thank you for your time and patience in listening to this bricklayer who is better with a brick trowel than a pen.

**The Acting Chair:** Thank you very much. We'll now open for questions. I guess you'll start, Mr Cooper.

**Mr Cooper:** Question: What is likely to happen to you, if Bill 80 doesn't go through, for coming forward the way you have?

**Mr Haggis:** If Bill 80 comes through?

**Mr Cooper:** If Bill 80 doesn't get passed.

**Mr Haggis:** To myself, probably nothing. I'm confident of the Ontario Labour Relations Board and how it operates.

**Mr Cooper:** What about the general feeling out in—

**Mr Haggis:** The general feeling is, if Bill 80 does not go in—I think the fact that there are only two Bricklayers speaking here to the committee tells you that they are either in agreement or possibly even intimidated, and not by the international but by the very fact that some of them have not taken it back to the local unions. We've taken it back to the local unions. In our constitution, we would not be doing our job if we did not inform our membership of current legislation.

**Ms Murdock:** You're a business manager for the London local?

**Mr Haggis:** Yes, I am.

**Ms Murdock:** I know that in the other presentation, Mr Strickland said there would be other business managers speaking against. But you implied, I think, in your presentation that he was only speaking out in favour of it because of—

**Mr Haggis:** Against.

**Ms Murdock:** —speaking out against it because of fear of the international, or repercussions from the international. I got the impression you were saying that.

**Mr Haggis:** Against Brian Strickland?

**Ms Murdock:** Yes.

**Mr Haggis:** Brian Strickland, I believe, is not afraid of anyone, and I'm sorry if I implied that. What I implied is that because he is appointed by the International Union of Bricklayers and Allied Craftsmen, it would be his job



to be here speaking against it, because the international union is just about to merge the local unions in Ontario.

**Ms Murdock:** Because he is the Canadian rep?

**Ms Murdock:** Yes, he is. He is appointed.

**Ms Murdock:** And you're elected by your membership?

**Mr Haggis:** That's right. Our whole executive board is elected by our membership. We have been told by the vice-president of the international, who was at a meeting I believe about two or three weeks ago, that when regionalization comes in, our local executive boards will cease to exist, even if they were elected. We will then be appointed—maybe.

**Ms Murdock:** How many Canadian reps do you have on your international board?

**Mr Haggis:** One.

**Ms Murdock:** Out of how many?

**Mr Haggis:** Now, because of corporate restructuring and downsizing, there are five, I believe, on the executive board. Correct me if I'm wrong, but I believe there are five. There were nine vice-presidents, one of whom was a Canadian, Brian Strickland, whom we elected to be there. They all had to resign when our international restructured and appointed them as regional directors.

**Ms Murdock:** Okay. So you have no say then in who these regional directors are?

**Mr Haggis:** Not now, no. We did at one time. We were allowed to elect our Canadian—

**Ms Murdock:** Was that allowable under your constitution, the restructuring and the appointment?

**Mr Haggis:** Yes. As Brother Strickland has mentioned, there was a committee struck up, Project 2000. I've read the reports from Project 2000, where they took quite a few brothers and sisters from around the country and asked them what things we could do in order to make this a better union, a more efficient union. Of course there were all kinds of input and there were all kinds of answers, but in reading the report, I never saw anywhere that it said that all local unions were going to be merged whether they liked it or not. That was something that came out of it.

**Ms Murdock:** What kind of representation do you have on your pension plan? Do you have control over it?

**Mr Haggis:** As far as our pension plan is concerned, Brian Strickland, by virtue of his position, is a trustee in the pension plan, along with a few others. I think they're appointed. Correct me if I'm wrong.

Through provincial bargaining, the local unions have dental, welfare and vacation pay. All the trustees are appointed by a provincial bargaining unit, and if you're not flavour of the month, you're not a trustee. I'm obviously not flavour of the month.

**Mrs Fawcett:** I thank you for coming. I'm going to try something really novel here and, as a politician, I'm going to try and be honest and say that I really do not have the knowledge that some members on the committee have of this bill and how it's going to really affect us. I guess in support of my colleague Steve Mahoney I would have to say to you that we really did not know we were

going to be sitting this late. We do make other commitments at times and, really, I feel that he would be here if he could.

I was interested when Mr Cooper asked you how this was going to change or whether this was going to change anything for you. Correct me if I'm wrong. Did you say you didn't see that it would change anything for you?

**Mr Haggis:** First of all, it's changed already, because if there was no Bill 80 in Ontario—

**Mrs Fawcett:** Proposed, you mean.

**Mr Haggis:** I'm sorry; that's right. Wishful thinking. If there was no—

**Ms Murdock:** Retroactive.

**Mr Haggis:** That's right. If there was no such bill ever brought in as Bill 80, then there is a good chance you might not be seeing us here, but you would probably be looking at 15 local unions in Ontario merged down into either one or four. That is not decided yet. The only thing we can say is that because Bill 80 in effect is alive, that has all been put on hold.

If Bill 80 is passed, then I believe if regionalization is to come in, there will be true input from local unions if that was the best route to take. Last but not least, it will go back to the membership to decide if that's what they want. That's where it all started and that's where it should end.

**Mrs Fawcett:** So right now you feel that you don't have input. If Bill 80 was not—we know it will be law because they have the majority—you really then would not have any effect, you wouldn't be consulted on anything, you wouldn't have a real say?

**Mr Haggis:** Of the 450-odd locals that Brother Strickland mentioned, I would hazard to say that it's probably down substantially from that now. Some 60% of those 458 locals have been either merged or restructured into megalocals, if you will, or area district councils or whatever.

There is always consultation, because that's the nice thing to say, when there's consultation. But when the ultimate goal is going to be mergers whether there's consultation or not, then that's what's happened. Some 60% of North America has been merged or restructured already under the regionalization.

1840

**Mrs Fawcett:** And that's bad?

**Mr Haggis:** The only thing that has stopped it in Ontario right now is the fact that Bill 80 is here in Ontario right now.

**Mrs Fawcett:** You really feel that you will definitely lose in mergers and so on that would take place without Bill 80?

**Mr Haggis:** I believe that we most definitely would lose if we had no say in whether it was to happen. I think that's not democratic. I'm elected by the members to do their wishes. If they wish to be merged, then merger might be the way to go, but that comes from the rank and file.

**Mrs Fawcett:** I hope the government members are listening to that answer, because in some ways, with

closure and so on that they're invoking on all of these bills, it does prevent people from having their say. I hope that message gets out there. I am learning. I'm very glad I'm on this committee right now, because I certainly am learning.

**The Acting Chair:** We'll entertain one more question. There are a few minutes left here. Go ahead.

**Ms Murdock:** Just to follow up on Mrs Fawcett's question—

**Mrs Fawcett:** I knew it.

**Ms Murdock:** No, no. I'm not even going to make a partisan political statement; it's not my style. Just in terms of that, though, the mergers sound sort of negative, but in actual fact I think one of the presenters earlier this afternoon was talking about how in every instance where they merged they were under 100 members, with no business rep and that the international ordered mergers.

Now, all that would happen under Bill 80. The way it would end up would be that if the international ordered a merger, then the local, if it didn't like the idea—this is on a complaint-driven system—would then appeal to the OLRB. An independent body would then make the decision as to if just cause had been shown etc. They would be then able to do that. I mean, that's ideally. Now, if the local was totally in agreement with the merger, then no one would apply to the OLRB. They would just go ahead with it. In actual fact, what you're saying still would happen under Bill 80 and now you cannot do that.

**Mr Haggis:** Right now, through regionalization. "Regionalization" is a nicer word; it's actually a more colourful word than calling it "merger." "Merger" is much harsher. If you take the word "regionalization" to the rank and file, they're not frightened.

**Ms Murdock:** It's like companies downsizing.

**Mr Haggis:** That's right; they're not frightened. You take the word "mergers" and, sure, they're frightened. The fact of the matter is that I believe that with Bill 80 being passed the rank and file will have the ultimate decision. I believe it has to go back to the membership. There has to be input through the membership. Without Bill 80, the mergers that are about to or are inevitably going to take place here in Ontario—although there would be consultation, there did not necessarily have to be consultation. The fact of the matter is that through the constitutions they're allowed to merge and restructure local unions.

**Ms Murdock:** Most internationals, though, particularly those that are opposed to Bill 80, would seem to have a very good working relationship with their locals and would involve them in the decision.

**Mr Haggis:** We have a very good working relationship with our international and in particular with Brian Strickland. But when Brian Strickland is not there any more—and we have no say when he will be there any more—then that relationship might not be the same. We hope he's there for a long time. We'd like the opportunity to be able to elect him there again.

**Mr Forbes:** Could I say something?

**The Acting Chair:** Sure.

**Mr Forbes:** I'd just like to point out, whether it's true or not, that there is a perception that if you go against the international, you may in some way be punished for it. I know there's more than just the two Bricklayers locals that have come forward that are for Bill 80, but unfortunately some guys are scared of losing their jobs. Whether this is true or perceived, it still bothers them and they won't speak up.

**The Acting Chair:** Thank you very much for taking the time to speak out and come here.

LABOURERS' INTERNATIONAL UNION  
OF NORTH AMERICA,

ONTARIO PROVINCIAL DISTRICT COUNCIL  
LABOURERS' INTERNATIONAL UNION  
OF NORTH AMERICA. LOCAL 506

**The Acting Chair:** The next group is the Labourers' International.

*Applause.*

**The Acting Chair:** Is the applause for me? Labourers' International, please come forward and get yourself on Hansard, sir. You've got approximately 20 minutes. Take it away.

**Mr Nick Barbieri:** My name is Nick Barbieri. Mr Chairman, I was under the impression that I would be given two options here, let's say, two consequent presentations, one on behalf of the Labourers' district council and one on behalf of my home local, which is Local 506.

**The Acting Chair:** That's my understanding too. Do you get 20 minutes each? No, 20 minutes for the whole thing.

**Mr Barbieri:** That won't be necessary, Mr Chairman. I think I can do both in 20 minutes as long as it's clear that I'm speaking on behalf of two different bodies.

**The Acting Chair:** Yes. It's for all the groups you're representing. Sorry if I cut myself off there. Announce it for everybody and take it away.

**Mr Barbieri:** Thank you. As I said, my name is Nick Barbieri. I'm the business manager of the Labourers' International Union of North America, Ontario Provincial District Council. Our council is made up of 15 local unions in the province, from Toronto, Kingston, Timmins, Sudbury, Ottawa, Oshawa, Thunder Bay, Windsor, Hamilton, the Sault, London, Cambridge and Sarnia. The Toronto area has three locals. We have a total membership of about 30,000 in Ontario and we are the largest single such council or union affected by Bill 80.

The position I'll table today is the official position as debated and approved by the delegates representing the above local unions and, in turn, by definition, our membership in the province.

This council has stated and gone on record as opposed to Bill 80 in its original form as tabled in the Legislature on June 25, 1992. This version of the bill contained provisions on successorship, merger and jurisdiction to which this council was strongly opposed as tabled then. I should remind you that I included a revised portion of the bill, and my comments will be in accordance to the revised portion. I should add that they've changed somewhat from the beginning to now.



To be exact, the delegates of the Labourers' International union, Ontario council, adopted by majority the following position:

"In regard to Bill 80, An Act to amend the Labour Relations Act, the Ontario Provincial District Council of the Labourers' International Union of North America cannot support section 138.6 (successorship/merger) in any form. It must be deleted. We do not support section 138.3 (jurisdiction) in its present form. Jurisdictional assignment should remain the purview of the parent organization with the right of appeal to the Ontario Labour Relations Board by the affiliate, if such right is exercised unjustly. Further, the...council is very concerned with the potential for ministerial discretion to interfere with internal union affairs throughout the bill and asks that it be deleted. Here again, access to the Ontario Labour Relations Board could be substituted. Last, the lack of any regulations to the bill makes it impossible to deal with, as many sections are unclear as to application. Clear regulations should be attached to the document."

Again, I'll remind you that these comments and this motion of our delegates were passed in relation to the original bill.

This position by the Labourers' district council still applies, noting however that some sections of the original bill have been dropped and others amended according to the document herein enclosed entitled Proposed Revision.

With regard to the attached version, we are still opposed to section 138.3, which is jurisdiction in its revised form. We believe that jurisdiction should be the bailiwick of the parent union, in order to avoid chaos and confusion as well as intralocal disputes. However, we also believe that an affiliate must have recourse to the Ontario Labour Relations Board if it feels that such right by the parent union is exercised unjustly.

I will draw your attention to section 138.4 in the attached document and express our concern over its perceived meaning. As I comprehend it, this section also deals with jurisdiction. Particularly, it means that given certain scenarios, complete authority would be given to a local union to expand its jurisdiction qualitatively and geographically at will.

I cannot underestimate the potential danger and confusion which may occur if these two sections on jurisdiction pass as they are, given my understanding of section 138.4. Such provisions may lead to one large or belligerent local union muscling in on the qualitative and geographical jurisdiction of its own sister locals or other locals in the province, a sure ingredient for chaos. It's a form of cannibalism.

I wish to express further concern about the Proposed Revision, as the language in this document is incomplete. There are stated intents for future wording throughout the document, and in those areas taking a position is to say the least difficult. We would like the option of further consultation when such language is complete; otherwise our position is as above.

**1850**

In conclusion, LIUNA district council is in general support of the bill. However, I must emphasize our

concern over section 138.3, which is jurisdiction, reiterating that control should be in the hands of the parent union, with recourse available to a local union if it deems any action to alter its jurisdiction was not justified.

Section 138.4 is of great concern, as it is very difficult to understand. If it means, as I understand it, that local unions have absolute right over jurisdiction as defined by certain collective agreements, this could be contrary to our constitution and contrary to our position on jurisdiction, as outlined above.

Again, I express concern over the incomplete language of the proposed revision and ask that when such language is finalized further consultation be afforded.

This is respectfully submitted on behalf of the 15 local unions making up the Ontario provincial district council.

**The Acting Chair:** Thank you, sir. We will now entertain questions. Mrs Fawcett, if you wish to start off.

**Mrs Fawcett:** I haven't any.

**The Acting Chair:** No questions from the Liberal Party. Do we have any questions from the governing party, Ms Murdock?

**Ms Murdock:** I'm confused about your argument on 138.4, which reads:

"(1) This section applies if, on the 1st day of May, 1992,

"(a) a parent trade union was party to a collective agreement whose geographic scope included the province and which applied to employees described in subsection 138.2(1); or

"(b) a parent trade union had given notice to bargain for the renewal of such a collective agreement."

Then:

"(2) Sections 138.2 and 138.3 do not operate to authorize a local trade union to enter into a separate collective agreement...or to alter the geographic scope of the collective agreement."

I don't understand how that moves into local unions muscling in on qualitative and geographical jurisdiction of their own sister locals.

**Mr Barbieri:** I'll explain that. The section is, first of all, very confusing; I agree with you. The only way I can make sense of it is to reverse the meaning of each clause, and then it becomes totally different.

The first two sections would apply if a parent union is party to an agreement or has given notice to bargain. Therefore, if they're not party to an agreement or if they have not given notice to bargain, then it does not apply. In that case, the local union can do whatever it would like with its jurisdiction, whether it's expand it or give it away.

**Ms Murdock:** Yes, "a parent trade union was party to...." If it was a party; it only applies—

**Mr Barbieri:** Ask yourself what would happen if it was not.

**Ms Murdock:** The whole section only applies if on May 1, 1992, a parent trade union was party to a collective agreement whose geographic scope included—

**Mr Barbieri:** Or if it gave notice to bargain.



**Ms Murdock:** Or "a parent trade union had given notice to bargain for the renewal of such a collective agreement."

**Mr Barbieri:** But if it was not party to the agreement or it had not given notice to bargain—

**Ms Murdock:** It doesn't apply.

**Mr Barbieri:** Not the whole section doesn't apply.

**Ms Murdock:** Yes.

**Mr Barbieri:** The third part of it would still apply.

**Ms Murdock:** Subsection 138.4(1): "This section applies if...." Meaning, then, the reverse is that it doesn't apply otherwise.

**Mr Barbieri:** I think the whole section refers to the third part of the section, which would tell me that if a parent union was not party to an agreement or if a parent union did not give notice to bargain, then the third section would apply. Then you also change the meaning of that. It becomes completely the opposite of what is stated there.

**Ms Murdock:** I don't find the language of that section confusing.

**Mr Barbieri:** If you are right, I have no problem with the section. But if you're wrong, I have a lot of problems with the section.

**Ms Murdock:** I'm reading that and I don't see what you see in it. That's why I'm saying that I'm confused.

**Mr Barbieri:** I'm very sceptical. As I said, if you're right, I have no problems with that section.

**Ms Murdock:** The only other thing is that I note that a complaint-driven system would be fine with you.

**Mr Barbieri:** Complaint-driven?

**Ms Murdock:** Well, you say—where is it?

**Mr Barbieri:** I stayed away from making comments about whether the act should be complaint-driven or not. What I would like to see, as far as the Labourers' union, is that once certain items have been dropped our biggest concern is the part on jurisdiction and its combination with merger.

**Ms Murdock:** Section 138.3.

**Mr Barbieri:** Right, or with 138.4 and in combination with that. What we would like to see is that the jurisdiction remain in the hands of the parent union, but that if that right or that authority would be unjustly exercised, there would be recourse. If you call that complaint-driven—

**Ms Murdock:** That's complaints-driven.

**Mr Barbieri:** Well—

**Ms Murdock:** That's what it is. The only time it would go before the OLRB or an independent body would be if the local had a complaint about how it was being done.

**Mr Barbieri:** Still, I would ask that the local union be given a strong say in what happened in that case, whether it would be complaint-driven or whether it would be the opposite.

**Ms Murdock:** Okay. The only other thing is that I want to go back to your other position on—where is it?

**Mr Barbieri:** Our whole position is the schedule on page 2, and again I must remind you that was based on the original bill.

**Ms Murdock:** It's actually on page 2, under the section in the quotes.

**Mr Barbieri:** That's right.

**Ms Murdock:** Right, in what was adopted. See, the plan is to delete the successorship provision in what I call the disaffiliation section, but I was interested in your successorship/merger line, because I see 138.3 as applying to that situation.

**Mr Barbieri:** The Labourers' union has an unusual position on those sections and there's a reason for it. First of all, although we're opposed to the section on merger in its original form, I don't place a lot of emphasis on that. After all, I see no need to give someone the right to move out of your house if they need permission from you in the first place, and that's the way the original act was written. The merger section of it, combined with jurisdiction, will have that effect, of allowing someone to leave an international union without seceding.

If a local union is completely empowered over its own jurisdiction and it can do anything it wants with it, all it has to do is affiliate with another local union from another denominational union, if you will—it could be an independent union, it could be another trade union—and they would in effect secede by combining the two unions.

What would be left of a local union under LIUNA is only its charter, without members and without collective agreements, if those two sections went through as originally planned. That is why we're alarmed about the way it originally was, and I'm hoping that what we're talking about here is a proposed revision, as opposed to the original bill.

**Ms Murdock:** I know how important it is because Joe Mancinelli came up to Sudbury and spoke to me for two hours. I figure anybody who comes from Hamilton and goes to Sudbury for the whole time is—and then Art Adams. I know him well. Thank you very much for taking the time and being so succinct.

**The Acting Chair:** Seeing no other questions, I guess we're done then, sir.

**Mr Barbieri:** My submission on behalf of the local is shorter and almost the same.

**The Acting Chair:** Oh, okay.

**Mr Barbieri:** I do have a submission to make on behalf of the local. Do I have any time left?

**The Acting Chair:** You've got a few minutes.

**Ms Murdock:** I'm sorry. I shouldn't have asked so many questions.

**Mr Barbieri:** That's all right. As well as being the business manager of the council, I'm secretary-treasurer of one of our largest local unions, Local 506 in Toronto, for which I'm making this submission.

Local 506 has a membership of over 5,000 and is one of the largest construction locals in Ontario and the largest Labourers' local with jurisdiction over ICI work in the province.

Local 506 is in general supportive of the bill, but

wishes to go on the record as being greatly concerned and strongly opposed to sections 138.3 and 138.4 as contained in the proposed revision hereto attached. Actually, it's not attached to this document but to the previous one. As we share geographical areas with two sister locals in Toronto, we feel jurisdiction should remain in the hands of the parent union, with recourse to the Ontario Labour Relations Board on any unjust or arbitrary decision to alter the same.

If section 138.3 remains as is, and in particular if section 138.4 is kept as is, the act would facilitate the expansion of jurisdiction both geographically and sectorally by one local union at the expense of another. A combination of these two sections would empower any local union to keep and/or dispense of its jurisdiction as it wishes, to the detriment of its parent union or sister local.

One possible negative outcome would be that jurisdiction under certain collective agreements could be given or moved to another local union or to a different union, thereby making it possible to actually secede from a parent union by giving away all its work or the work as covered by certain collective agreements.

In short, under these collective agreements, where the parent union is not a party to or has not given notice to bargain as prescribed in section 138.4, that local union could give away its jurisdiction, leaving it only with a meaningless charter from its parent union. That is a form of secession. A local union which has either given away its jurisdiction and/or the members covered by certain non-ICI agreements in reality ceases to exist or in fact has seceded from its parent union.

The recipient of such jurisdiction or collective agreements would then actively pursue this concept, creating further chaos and upheaval in the affected sectors.

I urge you to examine these two sections of the bill very carefully and amend them to empower the parent union to hold jurisdiction and authority over collective agreements and prevent chaos and possibly indirect secession.

Naturally, any unjust or arbitrary decisions by the parent union should be afforded recourse of appeal by the local union to the Ontario Labour Relations Board.

This is respectfully submitted on behalf of Local 506 in Toronto.

**The Acting Chair:** Are there any questions on that? Seeing no questions, I appreciate your time, sir, and I know you'll be following this with interest.

We can now move on, if it pleases everyone. It pleases me, and I'm the Chair.

1900

#### SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

**The Acting Chair:** The Sheet Metal Workers' International Association, would you help us out and continue on with a presentation. Announce yourself and who you are for the record, for Hansard. You've got 20 minutes.

**Mr Larry O'Neill:** Mr Chairman and committee members, I would like to thank you for giving me the opportunity to appear before you to express some of the concerns regarding Bill 80.

My name is Larry O'Neill. I am a sheet metal worker. I am a member of Local 537 in Hamilton. I am also an international representative for the Sheet Metal Workers' International Association, representing some of the locals and their members in Ontario.

What is a sheet metal worker? In our union, a sheet metal worker is a sheeter/decker installer, a welder, a production worker, a roofer or a person who has a certificate of qualification in the sheet metal trade. In Ontario, the Ministry of Skills Development issues a certificate of qualification under the rules and regulations of the Apprenticeship and Tradesmen's Qualification Act.

The sheet metal worker is a compulsory certified trade. To become a licensed sheet metal worker, you must serve a five-year apprenticeship or prove to the Ministry of Skills Development that you have worked in the trade for at least four years. You must pass a demonstration of skills test and then write and pass your C of Q test. Then you become a licensed sheet metal worker.

As a sheet metal worker I want to belong to the union that represents my trade, and that is why I am a member of the Sheet Metal Workers' International Association. I have been an active member of this association for the past 26 years. As soon as I became eligible to become an executive member of 537, I did just that. I have been on the different committees within Local 537, I have been a trustee of the health and welfare pension plan, and I have been one of 537's business representatives for eight years, up until May 1, 1992, all of which are elected positions. In March 1992, I was asked and I chose to work for the international association starting May 1.

I believe I have a pretty good knowledge of what has been going on in Local 537 and in Ontario regarding the sheet metal workers and our international. I can honestly say that the international has never interfered with the running of 537 or any other local in Ontario. The international did, however, tell me that I could no longer be on any of the committees within Local 537 or a trustee of its health and welfare pension plan because the international did not want to be interfering with the running of the local's inner structures.

It has been said that Bill 80 will give us more democracy. You have already heard about the resolution at the provincial building trades convention this year and last year, where the vast majority of the delegates there were and still are opposed to Bill 80. This is democracy, trying to push a bill that the vast majority of members are opposed to?

It has been said that Bill 80 will cause chaos in the construction industry and people have asked, "Will it and how will it?" Believe me, it will. It already has started. Right here we have heard members against their internationals, locals against locals, members against members, all over a bill that the majority are opposed to. This bill will not provide one job for the rank-and-file members. In fact, it may do the opposite; it may cost them jobs.

Last Wednesday, the Ontario Sheet Metal Workers' and Roofers' Conference, along with Local 30, Toronto, Local 397, Thunder Bay and Local 537, Hamilton, appeared before this committee. They used up all the time allotted them, therefore not allowing any time for ques-



tions, so you as a committee would assume everything presented before you was fact. There are some things I would like to inform you of about their presentation that could be construed as maybe a little misleading.

In the very first paragraph of the first page it states: "We are the provincial body of all 13 construction, sheet metal and roofer locals in Ontario. The membership of the conference is approximately 10,000." I would like to inform you that there are 12 construction unions; of the 12, one is a residential, and there is one production local. The total construction workers in Ontario with the Sheet Metal Workers are 8,266 members. They also stated that since the proposed revised amendments there are now 10 of the 11 locals in support of Bill 80, instead of the seven that were previously in favour. The seven were Local 30, Toronto; Local 235, Windsor; Local 269, Kingston; Local 392, Peterborough; Local 397, Thunder Bay; Local 504, Sudbury; and Local 537, Hamilton.

As I previously mentioned, since May 1, 1992, I have been representing some of these locals and I have attended many of their regular meetings. I know that the membership in Peterborough, Kingston and Hamilton have never had a membership vote regarding Bill 80, yet the Ontario conference is saying that these locals are in favour of Bill 80. As for the 11 locals that they state are now in support of Bill 80, the abovementioned three still have not had a vote on this bill, and last Friday in Kitchener Local 562 demonstrated against Bill 80 at Mike Cooper's office, which shows they are not in favour of Bill 80 either. Their statement of having 10 of the 11 locals supporting Bill 80 is not correct.

George Ward told you that the last dispute settled by the international was back in 1978 and 1979. He also stated that internationals don't solve jurisdictional disputes. The truth of the matter is that this morning I received a jurisdictional dispute by fax from Washington regarding the Hamilton local, and I also have a list of 10, starting back about 1988 up to this date, that I found this morning through the files.

#### 1910

One was with the association over Resin Deuter & Deuter Vent ducts. We went to arbitration with that, with the conference and the international to Washington, and we won that work for Local 30 and Local 537.

I won't read the rest of them, but they're in your kit. You can go through those since our time was cut down somewhat.

As for the accusations that George Ward made regarding misappropriation of funds in our international, at our recently held business agents' conference, our newly elected general president, Arthur Moore, gave the nearly 300 local union delegates a detailed report of the findings of the general executive council's investigation on that matter and the action taken and planned. He also stated that the general executive had formally appointed a standing finance committee to ensure checks and balances on the expenditures of the organization.

This problem could arise with any union or organization, and I feel that sheet metal workers have done everything in their power to quickly rectify the

situation. It is in our constitution that there is a system for checks and balances for each individual local by electing trustees from the membership who are not on the executive of the local union.

It would appear that this couldn't happen at a better time for some individuals, the ones who will take advantage of just such a situation for their own personal gain or cause. This is something that nobody in the union likes to hear, but it is doubly shameful when a high-ranking union official brings it to the public's attention. This is certainly not needed for the image of all unions.

The Ontario conference also suggested there should be checks and balances to prevent this from happening again. This year at their annual convention, which I was not invited to because of the hard feelings that Bill 80 has created between the international and the Ontario conference, there was a resolution dealing specifically with the abovementioned method of ensuring the checks and balances of the conference. The resolution dealt with having trustees of the conference who are not executive members voted in by the delegates at that convention.

The Ontario conference held that vote to bring in this resolution within its own organization. It was a tie vote, with the president having the power to break the tie vote, and he voted against it. So what they have suggested the international have to ensure misappropriation of funds wouldn't happen again, they feel they don't want or need for their own organization.

Internationals, justifiably, have put a few locals under trusteeship, but that certainly does not justify Bill 80, considering there are 146 construction locals in Ontario.

In conclusion, I have sat through these hearings and listened to the reasons as to why this bill has been introduced, and in my opinion there is no strong reason why we need to have government policing or interfering with the workings of our internationals. Our internationals have made provisions democratically within their membership by means of their constitutions that will cover any problems that could arise within their own organizations that supposedly Bill 80 is trying to address. This is a democratic way of letting the membership have their say in what goes on in their own organization, not the government.

Thank you, and please consider the true wishes of the construction workers before you decide on this very important issue.

**The Acting Chair:** Thank you, sir. There are five minutes; we'll split it up between the two caucuses. Go ahead, Mr Mahoney.

**Mr Mahoney:** Thank you, Larry, for that presentation. The issue of dispute settlement on agreement by both parties agreeing to settle the dispute seems to be cumbersome, but tie that in with the amendment that Joe Maloney and his people put forward in their presentation to make this whole bill complaint-driven.

If this were complaint-driven and a complaint arose—and I'm assuming, as you well know, that this bill is going through; that's reality—in an attempt to try and improve the thing and settle down the feelings within the labour movement, how would it work, or would it work



if it were based on complaints received and a hearing went—whatever it is, whether it's a trusteeship, whether it's removing someone from office, whether it's anything that the international does, if there's a complaint and you go to an OLRB hearing, how would you react to that?

**Mr Larry O'Neill:** At the present time, there is an ongoing dispute between Local 537 in Hamilton, and it has been going on for quite a while, about the boundary of the town of Milton. The members of Local 537 have their minds set on where the boundary is and the members of Local 30 have theirs.

Now, Local 537 has requested the international to come in and settle this dispute. Local 30 has requested the international to come in and settle the dispute. The international is investigating that dispute. They have not settled it because they really don't know what's going to happen if they settle a dispute when Bill 80 is there. What happens? Do we have the authority because the locals have come in and asked us, and do we not if one does not? And if we do decide, do we then have to go to the board and justify what we're doing and explain?

Your question was on the complaint-driven. To my line of thinking, with the complaint-driven, if we were to decide and come in and award the area to Hamilton or Toronto and the other one didn't like it, then with the complaint-driven, they could file that complaint with the labour board.

**Mr Mahoney:** Even though they requested you come in in the first place?

**Mr Larry O'Neill:** Even though—exactly.

**Mr Mahoney:** If there was a system in place where both parties agreed to the international coming in, and then because they didn't like the decision—there might be a bit of a credibility problem there.

I'm wondering if there's some way of, again, trying to play down some of the rhetoric and settling down some of the apparent hard feelings within the labour movement, if a system could not be devised where you could continue operating as the referee in the international. But if there were a complaint about an international being heavy-handed and coming in uninvited or doing something, adjusting boundaries, any number of things, and a complaint was filed, is it a softer position for the movement to then have, on a complaint-driven basis, an OLRB hearing to ultimately decide? You may have many, many times when there are no complaints filed at all and everyone's happy.

**Mr Larry O'Neill:** Exactly. I think it would be a waste of time to go to the labour board every time there was a decision made by anybody, and that's the way it would be right now. But with a complaint, if one of the people were not in agreement, then they would complain and that would eliminate an awful lot of them, I'm sure. In this particular case I think both have requested and both would most likely live with that answer, providing it was a not a setup for Bill 80.

**Mr Cooper:** Thank you for your presentation, Larry. A couple of things: When two locals invite the international in to resolve a dispute, that's the way it should happen. Bill 80 doesn't cover that. It covers a unilateral

decision by the parent to come in and alter one local's jurisdiction. That's why Bill 80's there.

The other thing is, on page 4 you talk about the labour relations board and the disputes that were settled in favour of the Sheet Metal Workers. Bill 80 doesn't address this; it addresses intratrade disputes, not intertrade. So if it was two sheet metal workers against each other, that's what Bill 80 addresses. It doesn't address the Iron Workers against the Sheet Metal Workers.

1920

**Mr Larry O'Neill:** I hear you, but there's a little bit of a cloud there because when the word "work" comes in, if there was a complaint, then who controls the word "work"? Let's just look at it and say that there is a complaint between the two unions and now the international goes in and settles the complaint. The work is really the carpenters' work and the sheet metal workers have said, "Yes, it is the carpenters' work; give it to them." By our records of agreements over the years, it is their work. Now the individual in that local says, "Wait a minute, by Bill 80, you're giving away our work, and you can't do that, because it's in there."

**Mr Cooper:** But it's still intratrade, not inter-trade, that Bill 80 deals with. The dispute system is already set up to go to the Ontario Labour Relations Board if it's, say, the Iron Workers against Sheet Metal Workers. There's no coverage for sheet metal worker against sheet metal worker, and that's what Bill 80 addresses.

**Mr Larry O'Neill:** I really have a problem. I don't think it is that simple and clear. I think there will be a presenter here tomorrow night—

**Mr Cooper:** Wednesday.

**Mr Larry O'Neill:** —or on Wednesday, pardon me, and he is going to touch on a lot of issues that I have not even touched on, because I couldn't in the time allotted.

**Mr Cooper:** Agreed.

**The Acting Chair:** Okay, and maybe you can help clarify that point for all sides; it seems like an interesting one. You sound like you both had your discussions. The time is up; it's been over 20 minutes. I don't want to be too heavy-handed, but I'm going to be. Thank you, sir, for your time.

#### ONTARIO PROVINCIAL CONFERENCE OF BRICKLAYERS AND ALLIED CRAFTSMEN

**The Acting Chair:** The next group is the Ontario Provincial Conference of Bricklayers and Allied Craftsmen. Would you please come forward and announce yourself and get on Hansard, sir, and anybody else that you have along with you. You've got 20 minutes.

**Mr Jerry Coelho:** My name is Jerry Coelho. I'm the secretary-treasurer of the Ontario Provincial Conference of the International Union of Bricklayers and Allied Craftsmen. But before I go on, I'd like to give you a little bit of background on who I am. I am the former business manager of Local 7 Canada IUBAC, which had mergers into it quite a number of years ago. I also have had two jurisdictions in two areas, and I'm also the vice-president for the bricklayers of the provincial building trades. But no matter what I'm going to say today, I'm speaking on

the proposed revisions, and I see revisions which I haven't seen. I'm just going to speak about them. As far as my former local goes, they were against Bill 80 in its entirety, just to go on record.

This brief is presented on behalf of the Ontario Provincial Conference of Bricklayers and Allied Craftsmen. It is made up of 15 local unions and represents about 5,000 members who are bricklayers, stone masons, tile setters, marble masons and terrazzo mechanics and various apprentices.

In submitting this brief, we must first note that there is a major problem concerning the actual text of Bill 80 as proposed by the government. We have the original text of the bill as tabled, and we have proposed revisions which apparently the ministry is prepared to make to the legislation. These changes significantly alter the legislation. To date, however, we have not seen the legislation in any final form proposed by the ministry.

Since we must assume that the minister was acting in good faith when he circulated these amendments to members of the building trades, we will confine our comments to the proposed Bill 80 as amended by the revisions proposed by the minister.

Since the revisions remove section 138.6, the successorship provision, from Bill 80, this will make our representations on this matter considerably shorter. That provision was the most upsetting and mischievous aspect of the whole bill.

As a general matter, we cannot accept the notion that this kind of legislation is desirable or reasonable. Governments generally have no business interfering in democratic associations such as trade unions and we resent this kind of intrusion by the government. Further, what has not been demonstrated by the government is the need for such drastic legislation interfering with our internal union affairs.

Turning to the specific provisions in the bill, section 138.2: This provision does not affect our union since we only make collective agreements in the industrial, commercial and institutional sector or the residential sector.

Section 138.3, jurisdiction of the local trade union: This is a provision which the ministry intends to change. Whereas the original legislation limited the power of the parent trade union to resolve jurisdictional differences, the proposed amendments, as we understand it, allow the board to permit the alteration of the jurisdiction of a local union if there is just cause for the alteration. The provision defines just cause as referring to the provisions of the constitution and the ability of a local union to carry out its responsibilities and the wishes of the members of the local trade union.

This change is a significant improvement of this provision. The important aspect of the change is the reference to the ability of the local trade union to carry out its responsibilities under the act. In fact locals do become, for various reasons, too small to be viable entities. In such circumstances, the parent trade union is forced to merge them with other locals in order to maintain viable local unions.

Closing or merging a non-viable local is simply an act

that has to do with the efficient running of a trade union. Although local members may object to losing their local union, it is often in their best interests that such an amalgamation be made. The act as originally proposed would have put unions in an impossible situation in attempts to improve the viability of small locals.

Section 138.4: This section appears to limit the effect of the previous two sections, and I have no comment.

Section 138.5, interference with a local trade union: Again, this is a provision for which significant modifications have been proposed by the ministry. The original Bill 80 provided that the Ontario Labour Relations Board was not bound by a union constitution where a parent union tried to penalize an officer of a local. The changes proposed by the ministry now direct the Ontario Labour Relations Board to the union's constitution when evaluating the parent union's action.

This earlier form of the legislation was most offensive in that it altered the constitution of all the construction trade unions. The proposed amended legislation also amends trade union constitutions by making the Ontario Labour Relations Board an appeal tribunal for officers of local unions if they have been penalized by the parent union, but the Ontario Labour Relations Board has already done that on its own. Just going back, I think it was the Iron Workers, and there is that case in the 1980s.

We further note that the revised legislation deletes subsection 4, which would have protected the wages of individuals regardless of the offence they were charged with. Thus, under the original subsection 4, a person could be fired for stealing from the local union, but his wages and benefits would be continued until the board ordered otherwise.

#### 1930

We are not certain that there is any real necessity for this type of intrusion into the internal affairs of a trade union. However, what is clear is that if there is to be intrusion, then the modifications proposed by the ministry are a substantial improvement over the earlier bill.

Section 138.6, successorship by local trade unions: It is our understanding the ministry has withdrawn this section. In the event that they have not, we most strongly oppose any intervention into the affairs of the construction unions along this line. The only reason for such a provision is to introduce instability into the collective bargaining relationships which were working well in the past. By allowing this kind of internal raiding at any time, the government would only be destabilizing the construction industry.

Section 138.7, administration of benefit plans: This provision raises a number of problems. Since most of our benefit plans are locally trustee, such a provision would not make much difference to our union. However, one wonders whether or not the original reason for this provision wasn't tied in with the previous successorship provision. If that is the case, if in fact the reason for this provision was to get at funds of predecessor trade unions under the previous 138.6, then it might be better to just remove this provision from the act completely at the same time as section 138.6 is dropped.



The reason for this suggestion is that the section is not directed at the labour relations board or the Ministry of Labour, but appears to be one of general law, which one assumes would be enforced through the courts. It must be remembered that these plans are for the benefit of the members of the various local unions. The trouble is, if an application is made to the courts under 138.7, the courts might very well apply money from the funds to cover the costs of those appearing in court. Anybody appearing in court under the provision is acting as a union politician trying to become a trustee on a trust fund. It is questionable that they should be entitled to use the member's money in a trust to pay for political action on their part.

The alternative to not dropping this section would be to add a further subsection which would direct the courts or any tribunal administering this provision from paying the cost of activities under this section from the funds in the plan. If people want to engage in this kind of activity, they ought not to do it at the expense of members whose benefits are tied up in these plans.

In summary, I hope the committee recognizes that we have tried to be constructive in our approach to this act. In particular, we have relied on the proposed changes that will be made by the ministry and we trust they will be made. Thank you for your time and consideration.

**The Acting Chair:** Thank you, sir. We will now open up the discussion and introduce Margaret Marland, representing the Conservative Party, who stepped in and listened to the debate. We welcome her. We will now have Mrs Fawcett from the Liberal Party.

**Mrs Fawcett:** Thank you for your presentation. I was interested—at the beginning you talked of mergers—that you had been a part of mergers. Would you please expand on that for me?

**Mr Coelho:** I've been a member for almost 23 years and this happened before my time, I suppose. Brian Strickland, I think, knew about this a long time ago. We are Local 7, Canada, and at that time we took in two small local unions that couldn't be viable today and wouldn't exist in any condition, which was Local 11, a Cornwall local, and Local 13, Pembroke. At that time we did have discussions or they did have discussions with the BAs of those locals and today they are surviving with the help of a bigger local. That's why I stand here today; why I phrased that I was from Local 7, Canada, at the time.

**Mrs Fawcett:** So really this business where possibly regionalization—I guess was the word that some were using. You don't feel that's going to be a detriment.

**Mr Coelho:** Going down to the basic facts, there are people with concerns of regionalization and what it means. We still have to have meetings with those local officers. We're trying to have those meetings. We are trying to see how we can protect the best interests of the membership—I shouldn't say "we"; I should say the executive board or the executive board of the internationals—for locals that won't be able to survive which have 50, 100 members and don't have a BA on the road. It might go further than this. Right now we don't know. We haven't had too many meetings on regionalization.

There's a lot of rhetoric. There's a lot of hearsay. I appreciate that other locals are concerned because I was one of those who was concerned as well, as Project 2000. This Project 2000, before my time, took in other locals across the province. That's how this became fact. They did have consultation with those locals. This comes from the grapevine, so I can't go into any more detail at this time. I answered as best I could.

**Mrs Fawcett:** Yes, you have. Certainly, in anything, bigger is not always better, but then there are some advantages as well. We're hearing both sides and it is quite interesting how this all works out. I still wonder, when we hear of one local pitted against another within the same sort of group, do we need provincial legislation to settle this, you see, and that's what I'm trying to wrestle with right now.

If you have one local in the Bricklayers against another local in the Bricklayers it sounds like a family squabble to me, but I realize it's far greater than that and I shouldn't make light. I just wonder myself why you would need Bill 80.

**Mr Coelho:** In my opinion, we have the democratic system today. We have locals that are for and we have locals that are against. We have councils that are for and we have councils against. We wouldn't be in this position with any government if we had the proper consultation. Why go by the back door when the front door is open with open arms?

We understand. Personally, I understand. If there are people and they're blaming internationals or they're blaming local union leaders, if they really, truly believe that they represent the members, then let them all stand, because I came from the tools myself. I came from the bottom and I'm working up. The membership voted for me in the position I have today. I came from the grapevine. I was business manager of the local. From that, the business manager of every local voted for me to represent them as secretary-treasurer, which I am today. If they didn't want me, I wouldn't be here today anyway.

Bill 80 shouldn't even have been on the table, because there were already protections before but nobody knew how to use them. In the Ontario Labour Relations Board, as far as I remember, and I can see and I can read, there were already provisions. I'd like to hear comments that there isn't or there wasn't. The CAW certainly got away from its parent organization. Nobody has jumped and screamed about it. But that's only my opinion.

I was speaking on the original bill in its entirety before because I remembered my members said they didn't want any part of it. I can't speak at that time for any other organization.

**Mrs Fawcett:** Thank you very much.

**Mrs Margaret Marland (Mississauga South):** Mr Coelho, I want to apologize and I'd also like to apologize to Mr O'Neill. I was asked to attend this committee meeting on behalf of Ms Elizabeth Witmer. I was told the meeting was starting at 7:30, so I came at 7:30 and found I'd missed Mr O'Neill with the Sheet Metal Workers' International Association completely and you had already started when I came in.



This evening's schedule, as you know, depended on whether a motion was passed at 4 o'clock this afternoon, and Ms Witmer had other commitments for this evening in her riding of Waterloo, so I was here in her place. Unfortunately, I haven't been able to be a part of it because the committee started ahead of the scheduled 7:30, but I will assure both of you that in the morning, at our caucus meeting, I will give Ms Witmer the copies of your briefs, which I have before me now, and I do apologize.

1940

**The Acting Chair:** Thank you, and Mr Cooper has a question for sure.

**Mr Cooper:** I don't have a question, but I'd like to make a comment at the end if Ms Murdock has a question.

**The Acting Chair:** Okay, I'll allow that. Go ahead. Ms Murdock, do you have a question?

**Ms Murdock:** I don't have a question: Is that what you're saying?

**The Acting Chair:** I'll decide who has a question around here. Go ahead.

**Ms Murdock:** I just find the whole construction industry so interesting, and until I was in this position, I knew absolutely nothing about it. One of the first functions I had as parliamentary assistant to the Minister of Labour, when there was just one parliamentary assistant, was signing the peace treaty between the International Labourers and the Carpenters. That's when I started getting briefed on how different the construction industry was.

I guess that's the point I would make in terms of one of the comments you made to Mrs Fawcett, which is that the provisions for the CAW to have moved out is certainly under the OLRA. But there's a whole section in that act that deals only with the construction industry because it recognizes the construction industry is so different, and there's nothing in those provisions.

**Mr Coelho:** Well, I tend to agree with what you said, but also the Bricklayers know—sure, there's a peace treaty with the Labourers, I suppose, and the Carpenters, you say?

**Ms Murdock:** Yes.

**Mr Coelho:** Well, we have a big problem today. The Bricklayers have a problem with them. Who's going to sign that peace treaty?

**Ms Murdock:** Oh, it took years. My understanding was years of negotiation.

**Mr Coelho:** Well, we have a problem too, and going to some of the sessions in here, there's going to be 365 days of raiding. I have that problem already in Ottawa.

**Ms Murdock:** Of raiding?

**Mr Coelho:** Of raiding. It means it doesn't matter if you have an agreement or not—

**Ms Murdock:** You raid.

**Mr Coelho:** They're taking people who belong to our organization. We know that better than any other local or any other organization right now.

Dealing with jurisdictions, Bill 80 doesn't do one darned good to some of the other parts, like Ottawa, when they are across the border with Quebec.

**Ms Murdock:** No. It's true. Well, it would be provincial legislation.

**Mr Coelho:** That's two different legislations right there.

**Ms Murdock:** Other than the bill that we're bringing forward on the Quebec legislation, of course.

**Mr Coelho:** That's right. So on one side you'd have Bricklayers; on the other side you'd have Labourers. You know, I have big problems. This is my own viewpoint, and I'm speaking on this proposed bill as revised now. I had a big problem in its entirety when it was in the original matter. So I wish you people would read the submission and the sections I quoted and then you can cross-reference it with the original bill.

**Ms Murdock:** Well, yes. It's a different—

**Mr Coelho:** And we don't know if that—well, whatever. Just excuse my speaking out. It was lack of consultation between governments and all groups. It really was. If every group was consulted, and everybody says, yes, they were consulted—

**Ms Murdock:** No, I don't think that's true. I think even the minister has said there were some groups that were not consulted and he apologized for that.

**The Acting Chair:** To finish up, Mr Cooper?

**Mr Cooper:** Yes. This isn't exactly directed to your presentation, but it does tie in. You were talking about the proposed revisions through your presentation. Some of the problems that have come about are the way the consultations have taken place because of the fear that was out there.

When we introduced second reading of the bill, there some proposed revisions that weren't sent through legal counsel, weren't in the correct form, but I was trying to facilitate it for the House and for the committee so they could deal with Bill 80.

Now it seems that there are some government motions sent out to the House leaders, which I just received. These haven't gone through the entire process yet. They haven't gone through caucus approval, and obviously we still aren't finished with the public consultation. These were put out to try and also facilitate discussion in the committee so that the opposition would know what direction we're taking and make it a little more concise.

These are not tabled as government motions yet, but I'm sure they'll be brought up Wednesday in committee hearings. But just to let everybody know, these haven't gone through the proper process and haven't been approved by caucus yet. It's just to facilitate for the committee so it knows what direction the government is taking.

**Mr Coelho:** These proposed revisions haven't passed anywhere, or they were just tabled?

**Ms Murdock:** It has to be tabled here.

**Mr Coelho:** They have to be tabled here, these revisions.

**Ms Murdock:** Going into clause-by-clause.

**Mr Coelho:** Yes. So there is no guarantee whatsoever that what I'm doing here today means anything.

**Mr Cooper:** One thing: The minister has given his assurance that section 138.6 will be dropped.

**Mr Coelho:** You people advise me, and I know the minister very well. I know a lot of people very well, and they said they would be consulting us. I didn't get these proposed revisions from anybody, except some people who would give them to me so I can comment on them. So today I'm going to go back and speak my mind to the membership I represent in my local area, with no guarantee.

**Mr Cooper:** It was just to give a direction of which way the minister was heading.

**Mr Coelho:** Either you go one way or you go the other way.

**Mr Cooper:** That doesn't happen till clause-by-clause.

**The Acting Chair:** As it is the legislative process, nothing is final till it's final and people are being as brutally honest as they can. We'll leave it at that. Mrs Marland, very quickly.

**Mrs Marland:** Just for the clarification of the people who are here as deputations, first of all, the government has moved closure on this. Is that so?

**The Acting Chair:** Yes.

**Mrs Marland:** Don't you find that very interesting, at the same time that the parliamentary assistant is putting on the record that the minister has apologized for not fully completing consultations? Now we have the other parliamentary assistant saying there are further consultations, the consultations aren't complete. We've got government amendments. Why don't you put your house in order and bring the bill in a clean, well-drafted state so you don't have to have more amendments?

**Mrs Fawcett:** We don't need closure from you too.

**Mrs Marland:** Also, the fact that you have the gall to move closure and you haven't even done the house-keeping on your own bill. It's absurd.

**The Acting Chair:** Thank you very much. I asked for one more comment and next time as the Chair, I'll remind myself of people taking a lot of leeway, which is only hurting themselves, not me.

I'd like to thank all the presenters who came here today to make their points known and for the committee to allow the leeway that we could work over supertime, and the presenters who worked over supertime.

We adjourn this meeting. We're back at 3:30 on Wednesday. Glad to see everybody again.

The committee adjourned at 1948.

## CONTENTS

Monday 29 November 1993

<b>Labour Relations Amendment Act, 1993, Bill 80, <i>Mr Mackenzie</i> / <i>Loi de 1993 modifiant la Loi sur les relations de travail</i>, projet de loi 80, <i>M. Mackenzie</i></b>	R-587
International Brotherhood of Electrical Workers, Local 804	R-591
Tom Keagan, assistant business manager	
International Union of Bricklayers and Allied Craftsmen	R-594
Brian Strickland, director of Canadian operations	
International Brotherhood of Electrical Workers, Local 1788	R-598
John Sprackett, business manager	
Tom MacLean, vice-president	
Jim Frolick, member	
International Union of Operating Engineers, Local 793	R-601
Richard Kennedy, president	
International Union of Bricklayers and Allied Craftsmen, Local 5	R-603
John Haggis, business manager	
George King, former business agent	
Robert Forbes, president	
Labourers' International Union of North America, Ontario Provincial District Council / Labourers' International Union of North America, Local 506	R-606
Nick Barbieri, council business manager and secretary-treasurer, Local 506	
Sheet Metal Workers' International Association	R-609
Larry O'Neill, international representative	
Ontario Provincial Conference of Bricklayers and Allied Craftsmen	R-611
Jerry Coelho, secretary-treasurer	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chairs / Président suppléants:**

Klopp, Paul (Huron ND)

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

**\*Fawcett, Joan M. (Northumberland L)**

Jordan, Leo (Lanark-Renfrew PC)

**\*Murdock, Sharon (Sudbury ND)**

Offer, Steven (Mississauga North/-Nord L)

**\*Turnbull, David (York Mills PC)**

**\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)**

**\*Wood, Len (Cochrane North/-Nord ND)**

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Huget

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer

Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

**Also taking part / Autres participants et participantes:**

Marland, Margaret (Mississauga South/-Sud PC)

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service



C17201  
K63  
576



R-27

R-27

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 1 December 1993

# Journal des débats (Hansard)

Mercredi 1 décembre 1993

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

Labour Relations Amendment Act, 1993

Loi de 1993 modifiant la Loi  
sur les relations de travail



Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 1 December 1993

The committee met at 1548 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

**The Acting Chair (Mr Paul Klopp):** Good afternoon, ladies and gentlemen and the standing committee on resources development. These are further hearings on Bill 80, An Act to amend the Labour Relations Act. We'll start, under the Chair's understanding, with the all-party agreement that we get into the hearings. It's scheduled for 3:30 and it is now 10 to 4, so without any further ado we will ask the first group to come forward.

LABOURERS' INTERNATIONAL UNION  
OF NORTH AMERICA, LOCALS 1059, 247, 1089

**The Acting Chair:** Mr MacKinnon, Labourers' International Union of North America, Local 1059, is he here? How are you, sir? Also, if you look at your committee agenda, at 4:10 Mr MacKinnon is again on the schedule. If it is in agreement with my colleagues here and with everyone else, is it all right if Mr MacKinnon goes through with his presentations and does them all at once rather than come back to the chair again? That's okay with everybody? Agreed.

**Mr Steven W. Mahoney (Mississauga West):** How many is that?

**The Acting Chair:** He is representing—

**Ms Sharon Murdock (Sudbury):** Labourers' International locals 1059 and 247.

**The Acting Chair:** That's right, locals 1059 and 247, and his colleague, Labourers' International Union of North America, Local 1089.

**Mr Mahoney:** That's three locals.

**The Acting Chair:** Right.

**Mr James MacKinnon:** What happened was that we all had 20 minutes scheduled and we were asked a week ago if some of us could double up. Locals 1089 and 1059 agreed to that. Local 247, due to medical reasons, couldn't be here today and asked me to speak on its behalf. But what I'm going to say would be the same, so it makes no sense for me to come back and repeat myself. We're asking if there would be a little more leeway for locals 1059 and 1089 to have a little more than 20 minutes if we need it, since we are squeezing them together.

**The Acting Chair:** Can I make a ruling for everyone's ease, that we'll allow you a little bit of leeway, a little under 30 minutes, and carry on here if that's okay.

**Mr Mahoney:** I'm sorry, could I just be clear? You're representing Local 247 as well, so the 4:10 time slot on our agenda is off.

**The Acting Chair:** It is out, right.

**Mr Mahoney:** Great. That gives you even more leeway, as far as I'm concerned.

**The Acting Chair:** We'll call it 30 minutes for you to introduce yourself and your colleague and who you represent and carry on, for the record, whatever you want to say in the next 30 minutes.

**Mr James MacKinnon:** Thank you for allowing us to be here and speak. On behalf of 1059, I'm the elected business manager. I've been a full-time staff representative since 1982. On two occasions we have had our membership vote on Bill 80, they've had copies of Bill 80, they've pursued it and they are in favour of the proposed legislation.

We're a local union that's predominantly based in London. It covers six counties, board area 3, known in the Ontario Labour Relations Act. I suppose one of the main reasons we support this legislation is that we've been through a trusteeship. We've had a history, starting back in the 1970s, of election fraud. In 1974 we had an election where the incumbent business manager, Paul Santagapita, ran for election, was re-elected and, due to widespread election fraud, after handwriting analysis was done, our international, after a year and a half, agreed to give us a new election in the early 1970s.

In 1982, during the election, his son, Len Santagapita, appeared on the scene. During the course of the election he acquired membership cards for members who were going to be out of town the weekend of the election and had non-members, people completely unrelated to our organization, vote on their behalf. When the election fraud was found, the international took the position that he wasn't found cheating on as many votes as he appeared to have won by. The judges of election refused to put him in office. The local trial board heard the evidence and by a vote of the membership, a majority vote, they decided he shouldn't hold office and because of his dishonesty and fraud shouldn't be implemented into his position of trust.

The international at first said the local union could deal with it, and then when they realized they were going to overturn the decision and instate him in office, threatened to put us in trusteeship.

The local union, although there was no remedy within the Ontario Labour Relations Act, went to the Supreme Court of Ontario and asked for an injunction to stop the trusteeship. I won't get into it too deeply other than to relate to you that after going through the frustration of having no legislation in Ontario, no third party to arbitrate the problem between the local union and the international, we lost our injunction. Judge Trainor said the purpose of the trusteeship was only to implement Mr Santagapita into office and that our constitution did not allow us to question our international's decision other than at a general convention, which is held every five years.



Our constitution allows our international, unfettered, to make the decisions it feels are best in the interests of the local unions in the organization, period. Their decision is final and binding on all parties.

The judge in that decision ruled that—and this information is contained at tab 1 in the brief that I've given you—if the constitution wasn't in place, we had a reasonable application for an injunction but that the constitution was an agreement between the parties and the courts could not get in between it and could not decide it; it was a contract between the members, although the judge did say that if the constitution wasn't in place, we should have had the injunction.

We were thrown out 48 hours after the injunction. Our international proceeded to put us in trusteeship and fired the complete elected executive board of the union. Our membership and our executive refused to leave office. Our membership physically barred the international from taking over the office and the assets of the local.

Through frustration, our international went back to the Supreme Court to Judge Trainor and asked for an injunction for us to abide by our constitution and the trusteeship. The judge, as you can see in the information provided there, was very upset and said the international had misled itself and the Supreme Court and, although he should uphold the constitution because it is the contract of employment that we all work under, would not give the injunction to them, although he should, because they hadn't come with clean hands to the court the first time.

He basically and specifically denied their injunction, which left us on the street, us without an injunction, them without an injunction. The whole issue from the beginning was, "Give us a new election for the position of business manager," so we could do that all over again and try and get the air clear. This left us in a very precarious position: We were told we were in trusteeship, the courts wouldn't uphold the trusteeship and they wouldn't turn the trusteeship down.

We proceeded then, as we had petitioned the Liberals, Conservatives and NDP in 1983 to effect legislation that would allow a third party to take a look at an issue as supreme as the complete autonomy of a local union being taken away from its members and have somebody be able to arbitrate that ultimate decision by an international.

In 1983, the Liberal Party supported us that there should be amendments to the Labour Relations Act. Also in the material that was presented by David Peterson at the time was the suggestion that the overall broad picture in a relationship between internationals and their local unions should be looked at, broader than just the trusteeship issue. That information I have also provided for you, and it's contained at tab 9.

You'll see that the information there is the Liberal research document and the position that they took in 1983 on both the trusteeship legislation and the broader issue. Also I have included some statements in the press that the Conservatives made at the time regarding the issue and a letter of support from a Conservative MP in London at the time who understood our problem and wished to help but couldn't do anything more than relay the issue.

That being said, we thought our problem would have been over and we would get on with business. In 1984 our international came in because we didn't abide by the trusteeship and it tried to take the charter away from the local union altogether. They proceeded to try to seize the bank accounts of the local union. I'll get to that very shortly.

There's a letter in here where the Bank of Montreal has advised them that it has done the banking and the institutional financial matters with the local union for a great number of years and it wasn't prepared to give that up to the international. We were fortunate the bank took that position. They said subject to a court order, they would not release it to the international. So that's the interference that happened even after that then to try and get us to heel.

#### 1600

Justice Trainor's final decision when he wouldn't give them the injunction specifically said that the trusteeship was nothing more than an act and a decision by the international to try and make the local union heel, and he called it a very draconian decision in the manner it was dealt with.

The legislation itself: Under the trusteeship, I've provided you all the documents, the court orders, the hearings, the decisions of the Supreme Court and also some newspaper clippings that accurately reflect quotes of the different parties at the time on the appeal for the legislative change.

Section 138.1, I believe, basically spells out that if there's a conflict between the act and the constitution, the act would prevail and is definitely something that's needed because in the strictest sense of our constitution, we have no appeal other than to an international convention which is held every five years. In the interim, our international executive board even has the power to amend the constitution and the everyday running of the affairs of the international. That's something that's needed and I provided a copy of the pertinent parts in our constitution at tab 2 that spell out their powers.

Tab 3: Specifically, section 138.2 deals with the rights of local unions to have deemed bargaining rights in collective agreements that our members work under, that we set the dues under, that we have to police, that we have to pay for the lawyers to represent our members in arbitrations and so forth, but specifically we have to have the permission of the international, and in one case with the Ontario Allied Construction Trades Council to even take a grievance. We come in with our hat in our hand and say: "Please, we'll pay for the arbitrations. We'll do it all. Can we represent our members?"

At tab 3, I've provided for you two Ontario Labour Relations Board decisions, specifically one between local 1059 and Ontario Hydro where we've tried to grieve on behalf of our members working for Ontario Hydro under the allied council agreement, and where the labour board has said Local 1059 cannot grieve on behalf of its members because it's not party to the agreement. That's something that section in the proposed Bill 80 would allow us to do then, have deemed shared bargaining rights with our international in those circumstances and

allow us to represent our members.

I've also provided you the list of four collective agreements that are either between the allied council or an international or a group of international unions where we'd have deemed bargaining rights where we don't now and a second labour board decision regarding the pipeline agreement where our district council, on behalf of a group of locals, tried to grieve and the board again held that we didn't hold bargaining rights and therefore we couldn't grieve on behalf of our members.

Tab 4, section 138.3 is one of the most substantial issues in the rights of Bill 80, and I think the thing that people lose track of is that 60% of my membership joined Local 1059 by virtue of signing an application for membership to certify an employer they worked for. They didn't walk in off the street and say: "I'd like to be a member of the Labourers' union. Give me a job." They had jobs. They wanted to be represented by this local. They applied for membership in it. They organized their employers. They had the people they elect negotiate their agreements for them, police them. They decided the union dues they wanted to pay and they decided on a monthly basis how those union dues are to be spent.

The whole issue around this protection in this act, in this proposal is that the local union members ultimately should be making the decisions on changes in jurisdiction, geographically or otherwise, because that's the reason they got into that particular local, because of the circumstances that exist at the status quo. I think it's important those rights are maintained.

To say to a person who put his job on the line and organized his employer to be a member of a local union where he channels his union dues and does his negotiations that down the road somebody's decided to make a change to that, to charter another local union possibly to handle half the local union's affairs, make it bigger, make it smaller, without their input, without their ultimate decision—they built the local union, they paid for it and they elect the local representatives who look after them.

I think that's one of the fundamental things that we believe Bill 80 will continue to give them, is to leave them the status quo and allow them to make the ultimate decision on their destiny. There are a couple of newspaper articles that spell out some actions with another local union in the province—and I won't comment on that—in regard to trusteeships.

Tab 6, is important, section 138.5, the autonomy of the local union that I just spoke on, again requiring it to make changes with just cause. I think that's the ultimate thing that's required.

The rights of the members of a local union should come first and the rights of the international should come second, I believe, in the ultimate decisions of their destiny on a local union basis. That's why they became members of the local union, in most cases, to begin with.

They should have the right of remedy at the Ontario Labour Relations Board or another third party. What I've done under that tab is that you'll see a letter from a law firm representing the Bank of Montreal to our international union over an interference that's further than a

trusteeship, further than supervision of our local. Again, trusteeship is a complete removal of all officers and the right to run your affairs for at least a year under the current legislation. This article just speaks to where the international is trying to take over the banking affairs of Local 1059 and the position of the bank on that.

I've also included with that a letter from the Ministry of Labour in 1984, from Russell Ramsay to Angelo Fosco. He references Local 1059. I guess this goes to the argument, if Bill 80's put in, what will it stop international unions from doing, where there is corruption and there are problems? If you read that letter, it's from the Conservative Minister of Labour of the day to our international, pleading with it to put a local under trusteeship because of the crime and corruption in the local and at the same time saying he's tried not to do legislation in the Local 1059 situation.

**Mr Mahoney:** Where is that letter?

**Mr James MacKinnon:** That's tab 6. There's a letter from Shepherd, McKenzie, Plaxton, and then right afterwards there's a letter of October 9, 1984.

It just shows you the other side of it, if an international wanted to get involved and clean up a particular local union other than for political issues. They seem to stay out of local unions that need it and they get involved in local unions that don't. Again, I'm speaking only of our own.

Section 138.7 is regarding pension funds, welfare funds, training funds. In most cases, the local unions set up their own welfare insurance funds. They administer them, they put trustees on them, but in some cases our members, through collective bargaining the local unions have done, contribute moneys to specifically a pension plan we have in Ontario and eastern Canada that covers all their pension requirements, hopefully, on retirement.

With that plan, the local unions in Ontario have no right at all to appoint any trustees on it. We negotiate the amounts that go into it, we represent the members in collective bargaining in that process, but we have no right to appoint trustees at all. The representation that's on that is as a gift from the right of the international which puts the trustees on it. That's the plan that is the predominant plan in Ontario for all the members of the Labourers' union.

I think that's fundamental. If your members pay money into a plan and you negotiate the amounts that go into it and you represent them, then you should have some right to put representatives elected by the people who are putting the money into that plan.

**1610**

I've already mentioned to you tab 10 is the position that Peterson specifically took and the Liberals took in 1983, and I won't get into that; it's fairly self-explanatory. The Liberal research document that was given out is there verbatim. Also, you'll see some positions of the parties on that issue.

There's a proposed legislative change that the Liberals tabled at that time, subsection 82(a), and it speaks to things farther than just trusteeship. It was supervision or control over a subordinate trade union whereby the



autonomy of such subordinate trade union is suspended, abridged or revoked. So even in the proposal by the Liberals at that time, although they spoke of broader needs on the issue of the trusteeship, they went farther and spoke of the issue of autonomy of local unions.

Tab 10, and I won't get into it, is just specifically the position of the provincial district council of Labourers in Ontario, and the position of the executive board and the delegates is contained in the minutes that have been provided for you. So if there's some doubt as to the position of the council, it's there, and again it's verbatim as far as the minutes go.

I'd just like to very quickly wrap it up and say that I think the legislation that's in Bill 80, and I haven't spoken to the issue of successorship simply because I understand it's gone, the balance of the bill is very democratic. I think it's very fair and it speaks to the rights of the members of the local unions first, so that if there's unjust interference, we've got a third arm's-length party to go to and try and solve our problems.

I think what the act will do, being changed with these amendments, is that you'll see more dialogue and you'll see more interaction between the local unions and the internationals prior to arbitrated decisions being made by an international without consultation. It'll require more consultation now because of the ultimate decision of the local to challenge their decision. I think you'll see very little activity at the board because of passing this. I think it'll solve everything out there in the field, where we deal on a day-to-day basis.

I'd like to thank you for allowing us to speak.

**The Acting Chair:** Does your colleague have anything to add?

**Mr Robert Leone:** I'll be very brief. My comments are pretty well similar to those of Local 1059. I would like, though, to make a correction. My name is not Clemente Cicchini; it's Robert Leone and I am manager of Local 1089.

**The Acting Chair:** We've got that. Thank you.

**Mr Leone:** I'm here on behalf of the members of Local 1089 to let you know that the membership is totally in favour of Bill 80.

I can remember almost 27 years ago, when I signed the card, I signed it and gave authority to the union to speak and to bargain on my behalf. The members who do that today sign the same card. What I mean by that is that I'm trying to show you that we, as managers, have a responsibility to the members who elect us. We answer to them on a daily basis and on a monthly basis at meetings, not like the international. We have a voice with the international once every five years, because that's when our conventions are, once every five years.

We're caught in the middle as to trying to perform the wishes of our members, and contrary to the international's opinion, we oftentimes get intimidated, coerced and once in a while we get a little subtle threat, which makes it difficult to function, because ultimately we have to carry the message that our members give us.

I ran into one situation where our members desperately wanted a group retirement savings plan, and I went into

conflict with our district council and with our international, and I had a very difficult time getting my point across to them that my members wanted this plan, and who best to know what is the best thing for the membership in the Sarnia area but the members themselves. We finally did get this plan going, and it's going very well, but it wasn't easy.

We also had an issue where the previous business manager had a problem with the Ontario Labour Relations Board and with the courts, and the Ministry of Labour requested that our international come in and intervene and correct the situation, but our international chose not to get involved. They chose to play the political game, and as a result the members ultimately suffered.

Our membership is also involved in various plans where we have little or no say at all as to the outcome of the plans, whether to make improvements, increase in contributions, whatever the case may be. Whenever there is a problem or a question, who gets it? I get it.

With respect to agreements, the problem that we run into is that we refer members out to work, and there is a problem. Oftentimes we have problems filing complaints, and if we file complaints, we have difficulties in carrying the complaint through. Membership has a problem understanding: "I'm working under this agreement. Why have we no say? Why can't we vote on the outcome of this collective agreement?"

**The Acting Chair:** Would you like to leave some time for questions, sir?

**Mr Leone:** Yes, I think so.

**Mr Mahoney:** How much time do we have?

**The Acting Chair:** Oh, you've got about three or four minutes.

**Mr Mahoney:** Each?

**The Acting Chair:** Yes.

**Mr Mahoney:** Thanks very much for your presentation. It's quite detailed. How do you feel about back-to-work legislation in general?

**Mr James MacKinnon:** How do I feel about it in the context of Bill 80?

**Mr Mahoney:** Any context. How do you feel about government legislating a union back to work?

*Interjection.*

**Mr Mahoney:** If they answer my question, they'll find out. How do you feel about it?

**Mr James MacKinnon:** I think you'd have to look at every circumstance.

**Mr Mahoney:** Do you believe it's warranted in some cases but not in others?

**Mr James MacKinnon:** I think you'd have to look at every case.

**Mr Leone:** I think the same. You have to look at every case and assess the issues, because at times you come to a sticking point in negotiating and something needs to occur to get everyone talking again. Sometimes it's good and sometimes it's not good.

**Mr Mahoney:** I'm not trying to trick you with



anything. I'm trying to get at a point here, and that is that—I'm not; I'm not trying to trick you at all. I guess I'm getting at a point that this whole bill and the issue strikes me as a labour dispute within labour. Rather than attempting to resolve it within your own house with perhaps some assistance—which is exactly what you did in 1982 with David Peterson. There was no legislation brought down to resolve your problem; there were threats, there were meetings, there were discussions, there were letters. In your own presentation you say that with the support of the Liberal opposition party the problem was resolved. It took more time than it should have; I quite agree with that.

But what I'm getting at is that back-to-work legislation is government intrusion in the collective bargaining process. I quite agree with your position, by the way, that you have to look at each instance. But it seems to me that Bill 80 is government resolving a dispute between two parties within the labour movement, be they the international and the locals, by legislation rather than attempting to do it by resolution, either through mediation, arbitration, or discussion.

1620

Some of the points you raise, I credit you, are quite valid. I certainly would agree with the statement in David Peterson's letter where he asks them to provide protection for the local from "arbitrary, unfair, unilateral takeover."

I agree that that should not be tolerated and allowed, but my question goes to the nub of whether or not we need legislation to do that or if it could be resolved within the labour movement itself.

The second part of the question would be: How do you feel about it if it's complaint-driven from the point of view of—in your case, in reality, it was complaint-driven. You guys complained like hell and got a lot of people on one side and resolved the problem. It should have been easier.

How would you feel if you could file a complaint about a trusteeship to the OLRB and have it heard, say, within—I don't know, what's reasonable, 30 days or something along those lines—rather than coming in with something that simply overrides a constitution?

**Mr James MacKinnon:** Unfortunately, in our constitution, any law that would limit the powers of the international would override the constitution because it's the legislative document that we deal with. The Ontario Labour Relations Act now spells out a duty on unions of fair representation, to deal internally with its own members. It also deals with certification procedures, vote procedures, a lot of things that happen out there.

The problem we have is that there is absolutely nothing in Ontario, in the courts or the act, that allows the question of just cause to be taken anywhere.

We were fortunate in 1983, not just that we had the support of the Liberals at the time and the NDP, that we had a stupid international rep. If he had done, very correctly, and a little more manipulatively, his issue on the trusteeship, our international would have had a court injunction having us abiding by that trusteeship, because they've got the right in the constitution to do it. We were very fortunate—

**Mr Mahoney:** My point—sorry to interrupt, but I'm so limited in time and you have had 30 minutes and I haven't—at least, today.

My question goes to the fact that if this is indeed an internal dispute within the labour movement, and I think it is—and there are some points that need to be resolved, whether it's shared bargaining rights, whether it's trustees on a pension board, whether it's the right to, as David called it, "arbitrary, unilateral, unfair takeover," all of those kinds of issues.

As in most labour disputes that I've ever been familiar with, there's a real strong attempt to resolve those differences between the negotiating parties, usually labour and management.

In this case, it's between local and international. I don't see the evidence, in this round at least, that—we might be prepared to support some changes that were agreed to by the parties if they were done on a less confrontative basis.

Let me say also, because I'm sure my time is up, that disagreeing with some of the points my former leader made wouldn't be the first time that happened. A party changing its position—it wouldn't be the first time that happened around this place.

I think you presented a fair and balanced argument and I just wonder if there weren't, and still aren't, better ways, such as the complaint-driven. I'm going to be putting an amendment forward—whether or not it gets voted on will depend on the time allocation—that the issue be complaints-driven, to at least allow you guys to resolve your differences before it comes to a government agency.

**Mr Leone:** I think maybe your question addresses more the accountability on the parties. It's like a David-and-Goliath issue. I'm accountable; the international should be accountable as well. But at the same time, if I'm David and I am intimidated, maybe I might go forward but the next guy might not.

**Mr Mahoney:** But you're now Goliath.

**Mr Leone:** No, not yet.

**The Acting Chair:** Thank you. Mr Murdoch, with an "h."

**Mr Bill Murdoch (Grey-Owen Sound):** With an "h," yes. I'm not the socialist Murdoch; I'm the other one.

**The Acting Chair:** Carry on.

**Mr Murdoch:** It's nice to see that Steve's maybe coming around here.

**Mr Mahoney:** Not at all.

**Mr Murdoch:** Oh, it's not nice to see?

**Mr Mahoney:** I'm still very much opposed to the bill; I'm just giving him some common sense to resolve some problems.

**Mr Murdoch:** No, obviously these are local. I would assume they were in favour of the bill. I'm sorry, I missed your comment. I wasn't supposed to be in here, but they dug me up and got me down here. You were in favour of this bill, I assume.

**Mr Leone:** Yes.

**Mr Murdoch:** So I'm going to ask them, then, because I'm in favour of the bill too, so let's—

**Mr Len Wood (Cochrane North):** You're the same as the other 85%.

**Mr Murdoch:** That's right. Hey, I agree on this one, you guys. It still mystifies me why this government's putting it through and I don't think I'll ever know that answer, but anyway—

**Mr Mahoney:** But you're going to support it anyway.

**Mr Murdoch:** I'm going to support it, yes, because it's local autonomy. I can't see anything wrong with it. I can't say, though, that all the party's going to, but I'm going to. We'll let the other guys make up their own minds.

**Mr Leone:** I appreciate your comments.

**The Acting Chair:** One quick question, please.

**Ms Murdock:** If Mr Cooper wants to, he can.

**Mr Mike Cooper (Kitchener-Wilmot):** It's a fairly quick one. On tab 6, the letter from the bank dated April 16, 1984, what is the status of the local's finances right now?

**Mr James MacKinnon:** After the bank refused—

**Mr Cooper:** No, not in this case. I mean at present, who controls your funds?

**Mr James MacKinnon:** The local union's members do.

**Mr Cooper:** And the money doesn't belong to the international?

**Mr James MacKinnon:** Technically, it does. The local union's members put it in and direct it, but under the constitution, it's the same issue that was in the original bill on the issue of leaving your international. Under the constitution under the act, if you left your international, that would all stay with the international's local union. You wouldn't control at that point, but—

**Mr Cooper:** So at present, if you remain within the international, it's your money.

**Mr James MacKinnon:** In law, it's not. In law, it's the international's, although the local union—

**Mr Cooper:** Would Bill 80 protect the international from coming in and seizing those assets?

**Mr James MacKinnon:** They would have to have just cause for those types of actions.

**Mr Cooper:** Under Bill 80.

**Mr James MacKinnon:** Yes.

**Mr Cooper:** But at present?

**Mr James MacKinnon:** No.

#### UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

**The Acting Chair:** The next group is the United Food and Commercial Workers International Union. I believe Clifford Evans is here. Could he please come forth—

**Mr Mahoney:** Get that Miracle Food Mart thing solved, eh?

**The Acting Chair:** —and get your name and your position on Hansard. If there are any other colleagues who are here with you, they're welcome to come up. You

see the procedure. You have approximately 20 minutes. You can leave time for questions, as long as it's all within the 20 minutes. It's your dime, sir. Take it away.

**Mr Clifford Evans:** My name is Cliff Evans. I'm the director of international operations for the United Food and Commercial Workers. I was for 22 years the Canadian director of the retail clerks' international union and then the UFCW.

The UFCW is Canada's largest private sector union. There are 170,000 of us in Canada, 75,000 in Ontario, and in North America we have 1.3 million members. We're not only the largest, we are the most diverse union in terms of our membership than any other union and the most reflective of the population as a whole.

We represent people who work in the service and industrial sectors and we do a good job for our members. We're large and we're strong and we're effective and we're progressive and we're out on strike with Miracle Food Mart and they're beating the hell out of us.

**Mr Mahoney:** Thanks to Bill 40.

**Mr Evans:** No, not thanks to Bill 40.

**Mr Mahoney:** There wouldn't be a strike if it wasn't for Bill 40.

**Mr Evans:** Oh, yes, there would be a strike. Let me guarantee you there would be a strike.

**Mr Mahoney:** We're on the same side on this one, Cliff.

**Mr Evans:** Not on Bill 40 causing the strike, we're not. We didn't get that way by the government telling us how to do it. In fact, governments have seldom been our friends and this piece of legislation is a perfect example of how to make it difficult for trade unions to do what they're supposed to do, and that's advance the legitimate economic interests of their members.

Bill 80 says to the trade unions, in the construction sector only: "We don't think you know how best to conduct the affairs of the organization. We think we in the government know better than you how to handle differences of opinion, philosophy or perspective within your organizations."

#### 1630

The implications of this unprecedented piece of legislation have not been fully considered. You've been so distracted by the internal politics of construction unions that you have failed to analyse or even admit the possible consequences to the members of a sudden and severe destabilization of the governance structures and political cultures of the unions. No government in Canada, North America or the industrial world where free collective bargaining takes place has ever introduced a piece of legislation like this, a law that effectively amends the constitutions of trade unions in fundamental ways. Only in dictatorships do governments run unions. A plain reading of the bill can only mean that this government wants to dictate how the internal affairs of a union should operate, but notice that it doesn't take any responsibility for the outcome of that interference.

In my almost 40 years' experience in the trade union movement in Canada, most of it here in Ontario, I have



participated in the drafting of several union constitutions and bylaws. I have not always had my way. In the international constitution of my own union, there are many things that I voted against and spoke out against when it was being drafted and amended.

Many years later, I would still vote against some of those things, but on others I've seen the wisdom of some of the aspects of the constitution that I originally opposed. But whatever my personal thoughts and beliefs, our constitution was democratically shaped by us and for us.

Others may look at our constitution and find things to criticize. We would tell such critics: "Join our union. Learn about our history, our culture, our experience and our aspirations. Learn about the realities of the industries we work in. Talk directly to our members and work alongside them for a few years. Find out about their expectations and needs. Get involved in our governance structures. Organize some members and then stick around and negotiate their contracts and handle their grievances and their many problems with government agencies such as workers' compensation and unemployment insurance. Then you might have an intelligent opinion on how we should govern ourselves."

That is what we're saying about Bill 80. It's not the UFCW constitution that you're changing, but it might as well be. The precedent is right here. Now that the door is open, any government can easily walk through for any political or economic reason, and it will. I might just tell you I'm opposed to government intervention in other than essential industries.

Why is this hazardous precedent being set? Exactly who is going to benefit from the legislation? What is the problem that is being addressed and how large is the problem? I know you've heard some stories, or at least one side of some stories, about allegations of heavy-handedness on the part of some unions towards the local unions. Some of these stories may be true or have some grain of truth in them. I'm not saying that unions in the construction industry always and in every circumstance handle problems in a way that all of us would like, any more than I always approve of the way that provincial or federal governments handle their problems.

I don't approve, for example, of the way the government sometimes unilaterally opens up collective agreements and amends them without the consent of the other party to the agreement, which means they are no longer agreements. But our Canadian Constitution, both written and common law, gives the government the right to do this, as heavy-handed as it may be. I sometimes wish I could write a law preventing governments from doing things like that in the future, and if enough other citizens agreed with me, perhaps we'd eventually put some restrictions in the Canadian Constitution.

The point is that each union's constitution, with all its flaws, real or imagined, is unique and fundamental to its organizational integrity. The trade union movement is very deep-rooted and each trade union has its own history. Ours goes back to the 19th century when retail clerks first organized to get Sundays off, and for a while there we were successful in doing just that, until a really

friendly government came along and made it difficult for us to maintain these legitimate social interests of our members.

Our cultures and our government structures have evolved steadily and our constitutions are the essence of those cultures. You cannot just blunder into these constitutions and reshape them to suit your own notion of how organizations should be governed and then walk away.

This is not a rhetorical warning. There are serious consequences that could flow from Bill 80 that you probably haven't even thought of, because you couldn't be expected to understand the realities of the economic and political environment within which each union operates. Here's an example: What does a parent organization do if a local union that has jurisdiction in an area doesn't organize the unorganized or if the members and officers refuse to let new members in? Those are real questions that somebody, some day, may want to address. They aren't being addressed in this piece of legislation.

For every allegation of a union being arbitrary and heavy-handed, infringing on a local union's autonomy for allegedly nefarious reasons, there are 10 examples of where the collective interests of the members and potential members of a local union, and indeed those of the union as a whole, require quick and decisive action on the part of the officers who were elected to safeguard those interests.

I myself have been involved in cases in which local union officers, sometimes in good faith but sometimes not, were jeopardizing not only the interests of their own members but those of other members of our union who were outside that local union's jurisdiction. For instance, I've had to try to stop strikes that would have been disastrous or settlements that would have been equally so. At such times, the local union officers may react negatively and cry interference and lack of autonomy, but we simply cannot allow inexperienced local leaders to push the members into a river when we know that the rapids and the waterfalls are just ahead, just out of sight.

Of course there must be checks on power and authority. We agree completely with this principle. What are unions after all but institutional checks on powers of employers? But these checks must not be so constructed as to prevent those who have the responsibilities from discharging them, and these checks should not be applied in a discriminatory way.

For example, if there's a problem in the trusteeship language in the Labour Relations Act, it should be corrected for all unions, not just the construction unions. If there are problems with the language relating to welfare and pension plans, they should be corrected for all unions, not just construction unions.

I happen to be a trustee on a number of jointly trusted programs, and we have a large number of local unions that are involved in them. It would be absolutely asinine to have 28 local unions sitting on a board of trustees to operate a plan. Quite frankly, you would never get anything done. We have a plan that runs 250,000 people and protects the benefits of 250,000 either past or present members, and we have never had a complaint in our organization that a local union felt that its members



weren't being properly represented, because the trustees have a responsibility to represent the participants.

If you ask me whether there are people in Canada, in the UFCW, who are in leadership roles in local unions and who would like to be trustees on the plan, absolutely. The question is whether they represent a large enough segment in the various economic regions of the country to be there so that the plan will run in the best interests and as economically as possible for the membership.

I think in every instance you have to look at the plan and you have to look at who and how many trustees there should be on the plan, whether the geographical representation is there and whether the locals have the ability to have input to the trustees who run the plan.

Similarly, if there were problems, real or perceived, with jurisdiction, either trade or geographical, then why wasn't there a review in Bill 40 on the question of jurisdictional issues for all unions? Our organization, in many instances, operates similarly to a great number of the building trades in that we have geographical local unions which have both trade and geographical jurisdiction. We also have a great number of local unions that are organized on a plant-by-plant or enterprise-by-enterprise system. Our constitution is developed so that it fits all of those requirements.

If we are to protect union members from the real or perceived arbitrary or discriminatory action of their leaders—local, national, international or provincial organizations—the wording in the labour relations act of British Columbia is perhaps a good model. It's very short and very precise:

1640

"Every person has a right to the application of the principles of natural justice in respect of all disputes relating to:

- "(a) matters in the constitution of the trade union;
- "(b) the person's membership in a trade union; or
- "(c) discipline by a trade union."

This is a broad-brushed approach that is appealing for its inclusiveness while at the same time not dictating the affairs of individual unions. It doesn't change any constitution, but it allows an aggrieved member a legal right to challenge his or her union's action, and this is what we should be trying to achieve here in Ontario.

Certainly there has been and always will be political conflicts and differences of opinion within unions. You have to understand that union leaders operate in an adversarial system and so are conditioned to dealing with conflict. The line of work doesn't attract people who have weak convictions or who are afraid to speak their minds. When a union has crafted an organizational and governance structure over many, many years, you should tread very carefully so you don't inoculate them against a relatively small problem and in the process infect them with a much more serious disease.

On behalf of the UFCW—and we've discussed this bill within our union extensively, so I know I speak for the union in this regard—please think through the possible outcomes of this legislation. Will it really make unions stronger, more capable of representing their members?

Whose interests will it really serve? The so-called problem Bill 80 addresses does not require drastic legislative action, especially since it opens the door for future governments everywhere in Canada to impose their own notions of what constitutes appropriate governance of unions that they neither understand nor care about.

Thank you very much for your time. If you've got any questions, I'll try to answer them.

**Mr Murdoch:** How much time do we have?

**The Acting Chair:** We have approximately three and a half minutes each.

**Mr Murdoch:** I guess the one question I have is that it looks to me in your presentation that the international sort of knows everything and the local guys really don't know anything. That's what I'm sort of hearing from this.

**Mr Evans:** I come out of a local union that had 42 members. I was a steward. I've been all the way through this organization, and that surely is not the case, because in our organization, and in most other organizations, there are provisions for trusteeships if you violate the constitution or if you do something illegal or improper.

I don't have a problem, just so you understand, with there being a show-cause hearing or just-cause hearing before the labour relations board within a 10-day period or a 30-day period or whatever is appropriate to deal with trusteeships; I have no problems with that at all. The problem that I do have is that in order to secure the evidence, you're denying the parent body of the local union the ability to get into the local union to see whether their fears or complaints are justified.

I don't have any problem whatsoever on the question of trusteeship and the question that it should not be for political reasons and it should not be used as a club, but there has got to be the application of whatever kind of justice this is purported to be applied to all. I'm sure that even Brother MacKinnon, who spoke before me, would agree that there are different levels, in his mind, of heavy-handedness by organizations. Some he would give you that there are none and some he would say that there are more than there should be.

I think you could have legislation that provides, as it does in British Columbia, where you've got an agreement of the government, the labour movement—all the labour movement, including the public, private and construction sectors—and the employers to put in that kind of legislation to deal with a real or perceived problem. What you've got here is a sledgehammer to kill an ant.

**Mr Murdoch:** One other thing: You mentioned that this would open up government interference. I think we were told—I don't know what day it was last week, and I think it was by a Mr Ward, but I'm not sure that was his name—the government in the past has already interfered before. He said the Conservatives did it and also the Liberals. He talked about Bette Stephenson doing something. I think that door's already been opened, so I don't think you need to fear that.

**Mr Evans:** I'm not doubting that the door's already been opened. I've been the recipient of many of the bad decisions various governments before this one have come up with. I don't think that is the role of government. I

would say that the government should not be involved in the governance of organizations. I don't think they are when it comes to the legal society, I don't think they are when it comes to the medical society, I don't think they are when it comes to the chamber of commerce, I don't think they are when it comes to the Canadian Manufacturers' Association and I don't think they should be when it comes to the labour movement.

**Mr Murdoch:** Well, I think that just in the last three years they have become involved in quite a few medical decisions and things like that as our health care—you can probably tell.

**The Acting Chair:** Thank you, Mr Murdoch.

**Mr Murdoch:** Oh, you're going to cut me off. I was just going to take a rant about you guys, but all right. I can do that another day.

**The Acting Chair:** I'm under a time constraint here, my friend, sorry.

**Mr Cooper:** Thanks very much for your presentation. First of all, on page 4 of your presentation you've got: "Here's an example: What does a parent organization do if a local union that has jurisdiction in an area doesn't organize the unorganized? Or if the members and officers refuse to let new members in?" Obviously that would be just cause because of the viable operation of the local.

**Mr Evans:** Mr Cooper, I would really beg to differ with you, because if you had a local union that had jurisdiction in an area and—I mean, it comes to effort, whether they're successful in their organizing attempts. I think if you were to come down to the Labour Relations Board and say, "The local union hasn't organized as many members as we think they should have and therefore we're going to place the local under trusteeship or put a new local in over top of that local union," I would really, with all due respect, even if I was the chairman, have great difficulty with that argument, because in these times it is very difficult to organize.

**Mr Cooper:** If you're talking about not meeting a quota, you mean.

**Mr Evans:** I'm sorry?

**Mr Cooper:** You're talking about not meeting a quota set by the international.

**Mr Evans:** Yes, real or imagined.

**Mr Cooper:** But if they're absolutely not doing any organizing, that would be just cause. If they're losing membership, they aren't viable. Then that would be just cause for the international to step in, right?

**Mr Evans:** I wouldn't think so. I really don't want to get into specifics, but I know a construction union that has a very large local union in Toronto and a very small local union in Barrie, and I think it's got a really small local union over in Oshawa. If you were the person making the decision, it may make all the sense in the world that for the service to the membership those should be amalgamated. The members in Barrie and Oshawa may say, "To hell with you, we don't want to do that, because we then wouldn't get the right to go to the Ontario Federation of Labour convention, the CLC convention or the international convention," or somebody

else's convention. They may not merge voluntarily for all the wrong reasons. My constitution says we can't merge them other than voluntarily, but there are decisions that some time have to be made that may be made where they are very unpopular at the moment but they're made for the right reasons.

**Mr Cooper:** Anyway, to follow up, you're the only one coming who wasn't from the construction trades, and you're talking about opening up the door for government interference in other internationals.

**Mr Evans:** No, I didn't say other internationals; I said other unions. I don't think this bill is aimed just at internationals; I think it's aimed at the labour movement.

**Mr Cooper:** To make it perfectly clear, the reason this is brought forward is it's already agreed that the construction trades have a separate section under the Labour Relations Act. The uniqueness of the way they operate—where their jobs are either short-term, long-term, they have different employers—is why this was brought in. They don't have a permanent workplace or a permanent employer. That's why they're separate in the Labour Relations Act and that's why this legislation was brought in specific to the construction trades.

**Mr Mahoney:** Actually, many of them don't have employers at all these days. It'd be interesting if we did something to create jobs.

**The Acting Chair:** Three minutes, Mr Mahoney.

**Mr Cooper:** That'll be done soon.

**Mr Mahoney:** Can you tell me what you see from the people who are particularly in support of it—not the people, not the individuals, but what would be the different interests of an international and a local, and particularly in reference to your example where an area's not being organized, there are unorganized workers? Would they have the same interests? Would they be competing with one another? Are there benefits for a local to belong to an international that perhaps are not coming out?

1650

**Mr Evans:** It all depends on which one you belong to. Our organization over the last 10 years—if you had a chart on per capita tax paid to the international which happens to go into a Canadian bank and what the international union has had to put into the Canadian operation, you'd find out that it's in excess of \$25 million, where the benefit surely doesn't go to the international; it goes in favour of the Canadian membership. Now, if somebody looks at it 10 years from now, it may be \$10 million in favour of the international union and they will of course have all forgotten about the fact that \$25 million went in during this 10-year period.

I think, from my standpoint, and I happen to have belonged to an international union for an awfully long time, we are probably as nationalistic or more nationalistic in respect to our organization than any national union because we have Canadianized our international constitution, we have the right to separate from our international union embedded in the constitution and we didn't do that with the assistance of any government legislation.



We went to an organization and demanded that we do inside our organization the things that we wanted to do. They quite frankly resisted for a great long time, too long, as far as I was concerned, and then saw the wisdom of their ways. We probably, as an international union—I think there are a few others—have as much autonomy as any national union in the country. We decide who we're going to support politically. We decide how we're going to draft documents and submit briefs.

**Mr Mahoney:** But if you were advising the people who are complaining about heavy-handedness—and you've said in your brief somewhere that you certainly don't support that kind of tactic going on, nor do I—of how they could perhaps attain the status that you people have attained in your union, how would you do that?

**Mr Evans:** By talking to the people across the country in the organizations.

**Mr Mahoney:** But they say they get to go to a convention every five years and no one will listen to them, so how do you do it?

**Mr Evans:** Conventions are not where it's done. Anybody who comes to this committee and says that's where it is done is very naive. It's a question of getting the Canadian membership together, supporting the idea and picking the right individuals to make the pitch, and it's not at a convention.

**Mr Mahoney:** Sort of like policy conventions.

**Mr Evans:** It's like getting them out in the hall and telling them, "This is the way it's going to be or else."

**Mr Mahoney:** How would you feel about its being complaint-driven, an amendment in this bill? Does that improve it, do you think?

**Mr Evans:** I think that's what British Columbia is. I think British Columbia is complaint-driven and I think it covers the widest range it can possibly cover. It covers matters dealing with the constitution, it covers the membership in the trade union. There is not in Bill 80, just so that you totally understand, anything that protects the members from the heavy-handed approach of a local union. I think their bylaws should provide that.

**Mr Mahoney:** That may be next.

**Mr Evans:** I think their bylaws should provide that. I think the constitution should provide that; our constitution surely does. If a local union doesn't handle a member's grievance properly, they have the right to complain to the international union and the international union has the right to come in and investigate the problem.

#### TORONTO-CENTRAL ONTARIO BUILDING AND CONSTRUCTION TRADES COUNCIL

**The Acting Chair:** The next presentation is Toronto-Central Ontario Building and Construction Trades Council, John Cartwright, business manager. Would you please come forward and both introduce yourselves and your positions. You have 20 minutes of our time.

**Mr John Cartwright:** Thank you very much. Ladies and gentlemen, my name is John Cartwright. I'm the business manager of the Toronto-Central Ontario Building and Construction Trades Council. With me is Chris Thurrott, business representative of the council. I'm a

carpenter by trade; Chris is a steamfitter by trade. The council represents 55,000 construction tradesmen and tradeswomen in the greater Toronto area, Simcoe, Durham and Peterborough regions, the entire central Ontario region. That numerically means about half of the unionized construction workers in the province.

I'm not going to read through the brief but I will touch on a number of points here. The first thing is to make it very clear how our council, the largest one in the province, came to its decision around Bill 80. We held a specially called meeting which every delegate was mailed a notice of. We had very high attendance to that meeting and we debated for over three hours every aspect of Bill 80. Then we held a secret ballot vote on each point, one by one. Our position, as a result of that secret ballot vote, is that we support Bill 80 for four of the five points and section 138.6 on successorship is not supported by our council.

But I want to make it very clear that it was done on a point-by-point basis and through a secret ballot because much of what's happened over the last year and a half since the introduction of Bill 80—the membership has not been allowed to vote with their conscience. There have been numerous cases of conventions or other meetings where international reps were present, and an intimidation factor does play into it.

I sat in on some of the hearings and the issue of Bill 80. It has been asked a number of times, why is this necessary? I think it's very important for this committee to understand the reality of the construction industry. Some people have talked about the fact that our members do not work at one place. They rely on the local union hiring hall for their employment, they rely on the local union to be able to dispatch them to work, to be able to defend them. Not only do the employees rely on a hiring hall but also the employers.

We operate in perhaps the most heavily unionized sector of the economy in Ontario, and I think that's a credit to the efforts and determination of construction workers to make themselves a better life. We belong to, in the building trades, 14 different international unions. They're all affiliated to the AFL-CIO building trades department in Washington. All of the councils are chartered from there. The officers of the Canadian executive board are all selected by the international union, as are the delegates to the Canadian convention all selected by the international unions except some of those from the affiliated councils. The last convention that you may have heard mention of was chaired by Brother Robert Georgine from Washington, the head of the department.

Within each international union the Canadian membership makes up a very small percentage, anywhere from 5% to 11%, of the membership and there is no international that I'm aware of where the selection of the top Canadian officer is constitutionally determined by a Canadian body.

I want to speak mostly around the issue of checks and balances because the question of why Bill 80 is necessary is around something that construction workers in this province do not have, and that is an adequate system of



checks and balances within their international constitution.

Cliff Evans just made a presentation saying that this thing will apply to everybody. I beg to differ. In an industrial or service union, if an international or a national union comes into a local union, removes its freely elected leadership or interferes in their ability to operate as officers or takes the local union over, the members who belong to that union and work in a workplace have an option if they feel that they've been totally unjustly dealt with, and that option is very simple. At come-open period of that collective agreement, those members can say: "We don't like this. We don't like paying dues to an organization that's going to abuse us. We think we'll leave." They can then go and take a vote and choose to decertify and leave and join another union.

At the end of that vote, the next morning, if they choose to join ABC Union of North America, or ABC Union of Canada, guess what? They all still have their jobs when they go and punch into the clock or they walk into the mine or they walk into the office. They all still have their health and welfare benefits under that agreement that was there, or with that company, and they all still have some pension rights. That is totally different from what would happen in construction.

1700

If a similar group of workers in construction felt as aggrieved as that philosophical group that I just talked about and decided they wanted to go somewhere else, they felt that their international was not dealing with them properly and they didn't want to wait five years for a convention or five years for backroom deals—as I think was made quite obvious by the last speaker, that's how politics are changed, not by convention delegate decision—and they decided to take a vote in construction, they could vote to leave, that's true. But the bargaining rights for the local union that they belong to are shared in the ICI sector with the international, and the bargaining rights that we get in construction are by organizing companies when they have employees. But most of the companies that we currently have bargaining rights with no longer have employees, because they are developers or major contractors and they change the way of business. They go under construction management, they go into general contracting, and they use subcontractors in the majority of the work.

So the fact is that if all, let's say, 6,000 members of a particular union voted to go differently, they would leave behind the vast majority of their bargaining rights because of the accreditation orders that are part of the Ontario Labour Relations Act, because of the designation order that's part of the act and because of the certification process that we have. Not only would they leave that behind, but their pension and welfare plans would be up for question and they would lose any mobility to be able to work around the rest of the province.

For a construction trades person, that's a pretty onerous price to pay. The question of whether or not the next building that's even in your community, around the block—you may not be able to build on it because the bargaining rights of that developer or that contractor—

they no longer had employees and you could not acquire those bargaining rights, no matter if it was a totally unanimous vote. You could not work on there, and that job would then be given to somebody else.

So there's an immense difference in balance of power. That is totally different than in the industrial or service sector. That balance of power and that difference has meant that the sobering influence of a union leader at an international or national level thinking: "Jeez, I'd better play fairly with these people because if I really treat them badly and they come to me in the back rooms and they don't get what they want, I might lose 5,000 dues-paying members, or I might lose 20,000 dues-paying members. I'd better look at this, and I'd better adjust my constitution accordingly and give them the right in Canada to secede"—Brother Evans talked about that being in the UFCW constitution. It is now, but you think back to the process over the last 10 years that took place and the membership loss that the organization took before somebody was persuaded in the back rooms that it had to happen. Well, that's one hell of a process.

That process is not something the construction workers could ever avail themselves of if they wanted. We don't want to, but the fact is that having that balance, a system of checks and balances, means that the approach and attitude of international and national unions in the industrial-service sector has to be much more fair than it is in the construction industry.

That imbalance is also reflected in another area. Brother Evans talked about the fact that there's now a much more Canadianized constitution. Every union in Canada in the last 20 years has been dealing with the issue of Canadian autonomy and the demand for Canadian workers to have more say over their top elected officers and their policies that they set in Canada and that their union abides by in Canada. Our unions in the construction trades have not, by and large, moved to a system constitutionally where the top officers are elected by Canadians or where policy is decided in Canada. It's almost exclusively that top officers are appointed by the international, or they're maybe selected by a Canadian caucus but ultimately constitutionally elected by a convention at large, at which Canadians are between 5% and 11% of the delegates.

Those industrial and service unions moved to a different structure around the issue of Canadian self-government because they knew they had to. They could not afford to have their members feeling disenfranchised by not having control over election or control over policy.

So we go to the setting, and I think that's most important. I wanted to share that with you because I think a lot of people have come here with horror stories and I think most people within this committee, if they're honest, would say those things should not just happen.

The argument back about why there should be no Bill 80 is: You shouldn't interfere. This is all covered. Why can't we all be friends? The fact is that in the construction industry there does exist a system of checks and balances which is so vital to a democratic process.

So I want to go through, very briefly, the sections.

The issue of sharing bargaining rights: We've had membership affiliates of our council that have found themselves with no input at all, no voting rights on agreements that they work under such as Hydro, such as the general president's maintenance agreements. In some cases, people's conditions have been changed without even their knowledge. They could show up to work on a day and all of a sudden they're working an extra half-hour but nobody's bothered to tell them. That's happened in the past to affiliates of this council.

We think it only makes sense that bargaining rights should be shared. In other jurisdictions it says that every member must have the right to vote on agreements before they're valid. The wording here talks about the input of the local unions through that process. That allows some flexibility in situations where it may not be as clear as to how many people are in the bargaining unit at a particular time, where you may be in a buildup situation. So the wording there is fine but it should be taking place.

The jurisdiction of a local union: I think we have to understand that some of the opponents of the bill are trying to muddy the water that this is jurisdiction between crafts. It's quite clear within the bill that it's jurisdiction within an international. Almost all of the international constitutions allow the general president or the executive board full authority to change jurisdictions in sectors, and it's really clear that the intent of this part of the bill is to deny the ability of an organization to achieve through circumventing routes what it can't achieve by direct trusteeship.

A classic example, if you want to look at it: A few years ago Diane Kilmury, who is now a vice-president of the Teamsters union only by court intervention in the United States which brought about democratic elections there, beat Ed Lawson, the flying senator, in an election in the giant Vancouver local. Shortly after that, a small section of that union was hived off with about 200 or 300 members, and amazingly Diane Kilmury was in that section and therefore was not part of the big local any more and was not able to continue on with the challenge until court action took place in the United States.

So what you're talking about with jurisdictional issues is not, "Is a sheet metal worker or a pipefitter going to steal some jurisdiction?" but are we going to ensure that mischief can't be carried out because the act says that trusteeship can't be carried out?

Interference in a local union: The fact is that for most of our members, and it's been said here before, the local union is the union. That's who sends members out to work, that's who accepts them into membership, that's who trains them as apprentices, that's who appoints or selects the steward or causes election for stewards and that's who polices the collective agreement. That's who the members look to as being the union.

Constitutionally, our internationals give our GP or our executive board wide-ranging power over the local unions. Either through charter or directive, they can do all kinds of things to the locals.

What we have is in fact a union movement. We are all very political animals. People have different approaches on bargaining, on how elections should take place, on

who should win elections, and often policy differences can lead to major disputes. This is where we see the lack of balance, that some heavy-handedness has taken place, and it's taken place among affiliates of this council: 353 you've heard about; Labourers' Local 506, the second-largest local in the country under trusteeship, because the international did not want the incumbent to lose because he was a supporter. Of course, as soon as a free election was held, he did lose and the new administration was elected and has been re-elected because it has the faith of the membership.

I found it interesting to be in this committee hearing the other day when Jim Phair from the Iron Workers was asked a direct question about trusteeships and neglected to mention that back in 1981 he put the entire Ontario Iron Workers district council under trusteeship. He forgot to mention that when he was asked a direct question from one of the committee. There's a 40-page labour board decision on that which talks about how that district council wanted to have some say over its bargaining rights around the electrical power site.

#### 1710

Protection from unjust trusteeship is absolutely vital. It can't be left to people who have been removed from office to try to somehow go into their personal bank accounts and explain to their wife or partner why it is they can no longer afford to pay the mortgage in order to fight a battery of lawyers hired by the international to keep them out of office. It cannot happen that way. It has happened that way in the past, as has been testified to here before.

As I've said before, we do not support section 138.6 of the bill.

The benefit and pension plans: There are numerous pieces of legislation that cover them, both federally and provincially. What's in this act, or a proposal only, ensures that there's democratic representation.

I want to summarize on a couple of things. During this whole debate there have been two very strong sides, quite polarized in their vociferousness, and a lot of people in the middle who sometimes don't want to express their opinion. A lot of scaremongering has taken place. There have been warnings that pensions will be devalued. There have been images that Quebec-style fragmentation will happen here. There are predictions that building trades will be gobbled up by industrial unions. There have been leaflets passed around, printed by the internationals, saying that all of those things were going to happen.

I guess that's why I think it's been important that we went through a process of item-by-item examination of the bill before we took a vote, because often the questions have been: "Bill 80 would mean you're going to lose your pension and Quebec is going to take over and do this and that. Are you in favour or against? All in favour? Bang." An example is the provincial building trades convention. I'm sad to say that even though there was a request for a secret ballot at that level, it was not agreed to. Even though there was a request to deal with Bill 80 issue by issue, it was not agreed to by the chair. In fact, the chair of the resolutions committee was appointed by the president of the provincial building



trades and was the brother who had been assigned on the international payroll for the previous year to oppose Bill 80: totally imbalanced in terms of how you address the issue.

I don't think what will happen is that if people get a right to have a defence of their own democratic process, that will bring about chaos. I know what will happen is that if the protection is in place, the democratic nature of trade unions will show itself and there will be discussion and debate internally, that respect will take place between the international or national union office and the locals so that problems will be worked out, as they are in many internationals in the building trades.

I don't want to leave the impression that some of the abuses you've heard are shared across all organizations. Many of the organizations have extremely good working relationships and they have a different kind of approach and a different kind of relationship with the international, but not all. Sometimes those relationships change depending on who is put into the position of Canadian director or eastern Canadian director or whatever.

With the revisions proposed to Bill 80, as in taking out the successorship, Bill 80 will perform one essential function: It will provide a balance with the international building trades structure that ensures that workers in the province will be free to develop the best possible trade union representation in the 1990s and beyond.

Many things are changing in construction, and the unions, as well as our industry partners, are striving to respond in a positive fashion. But sometimes change involves asking tough questions that not everybody is comfortable with, and I want to emphasize that point. We live in political structures in our union movement. Sometimes tough questions have to be asked and sometimes not everybody's comfortable with those tough questions. But the surest way of getting the right answers to those questions is to encourage a process that involves the membership of each union in a truly democratic manner. That's why the Toronto-central Ontario council is in support of the four points in Bill 80 that deal with democratic rights of local unions.

I do have one other piece that was passed around, which is something that had been given to affiliates of our council recently from their international, demanding that they sign over their bank account. I think that again is an example, unfortunately, of some of the kind of friction that is still in place and that would not be resolved by a gentlemen's agreement and handshake, as has been suggested by the opponents of this bill—that we leave up to our relations.

**The Acting Chair:** Thank you. One quick question, if there is one, otherwise we'll move on.

**Mrs Joan M. Fawcett (Northumberland):** Just very briefly, if Bill 80 goes in, do you feel there's any detriment to you operating out of province or out of country?

**Mr Cartwright:** No, not at all. With Bill 80 as it's amended or as it's proposed to be amended, with the successorship out, there'll be no impact at all on members working out of province or anywhere else. It has no effect on that at all.

**Mr Murdoch:** Thank you for your presentation. I think you answered a lot of questions I may have had. I believe you did a good job, so I'm happy with that.

**Mr Cooper:** Once again, thank you for your presentation and for talking about the fairness and balance that'll be brought about by Bill 80.

**The Acting Chair:** The committee as a whole thanks you for taking the time to come here today. I'm sure you're going to follow this with interest.

#### LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA

**The Acting Chair:** The next group presenting is the Labourers' International Union of North America. Would you please come forward, put your name on and your position for Hansard. You've got approximately 20 minutes.

**Mr Joseph S. Mancinelli:** My name is Joe Mancinelli. I am the manager of the Labourers' International Union of North America for central Canada. I represent the international or the parent, as referred to in Bill 80. That's not an uncommon terminology for me, being the father of four children, but it's kind of unusual in the type of business we're in.

LIUNA central Canada represents about 30,000 members in the province of Ontario and a few thousand members in the province of Manitoba. In the province of Ontario, we're comprised of 15 local unions which I have listed in the beginning of the brief.

LIUNA is the largest building trades union in the province, and as such, the effect of Bill 80 would be felt the most by our organization. Over the past several months, since the bill's first reading, the building trades have been divided on Bill 80. The ambiguous nature of the bill's text and its apparent misguided and self-serving consultations have created division and unprecedented turmoil for many of our local unions.

The original document circulated on Bill 80 headlined a bill to restore democracy in the construction industry. This is an unwarranted and I feel offensive insinuation. If we are to focus on democracy, then let us carefully re-examine the history of disputes between parent international unions and their local unions. This investigation will conclude that there have been few cases and examples of heavy-handedness and undemocratic behaviour.

Deeper investigations reveal that the construction sector building trades unions are far more democratic than the industrial sector. The industrial sector and public sector unions' constitutions, which are in fact heavy-handed—these sectors have been plagued by unprecedented trusteeships from their parent bodies—have left a legacy of strong-arming and partisan manipulation of executive boards to serve their own interests.

As an example, the United Steelworkers union in my home city of Hamilton has a turbulent history of numerous trusteeships and supervisions in only one local union, Local 1005. The question that continues to plague many building trades people is, why was this sector—the industrial unions and the government unions, the public sector unions—omitted from Bill 80? Why have only the



building trades unions been singled out in this obvious display of heavy-handedness by the provincial government?

I believe there are parts of Bill 80 that embody the spirit of cooperation and fairness that essentially is found in our union and international constitutions. Our constitution has been evolving since 1903. At every general convention, our members can submit resolutions to amend and change our constitution. This is clearly an act of the highest order of democracy, letting the members' resolutions change and alter the future of our governing orders, the constitution. Bill 80 insults this democratic procedure by reducing and divesting our constitution of its significance.

On a point of information, I have included a copy of our constitution in the Chairman's package for you to dissect and look at the fairness as well.

1720

Is the spirit of Bill 80 to truly give local unions more choices, freedom and protection from reprisal, or has Bill 80 been misused and promoted by only a few individuals whose motivation is greed and the desire to empire-build at everyone else's expense? If it is the latter, then not only will Bill 80 fail but it will lead to the disintegration of our organization as well as the rest of the building trades.

On the following pages, democracy is clearly demonstrated by the votes taken at the Labourer's Ontario provincial district council and the provincial building trades convention for the past two years.

On page 3, there's a resolution that was passed by the delegates on the floor of our district council, representing 15 Labourers' union locals across the province of Ontario. In the left-hand column, it shows 32 in favour of the resolution to oppose Bill 80 and 24 against, clearly a democratic sign that the majority were opposed to the present form of Bill 80.

On the next page is a resolution that was submitted by my home local in Hamilton to the provincial building trades which passed by a majority. Whether it was a standing vote, a show of hands or a secret ballot, for two years in a row at the building trades convention, the democratic majority voted against the bill.

We have outlined on page 5 a number of the organizations that have openly opposed the bill. These are provincial organizations, councils of local unions clearly representing the majority. On the next page, it shows the number of building trades councils that are on record opposing Bill 80, and they're listed there. Clearly you can see that it is a majority that oppose the bill.

I have attempted to illustrate how the present structure will impact on construction labour. Section 138.2, which refers to bargaining rights, as far as the labourers are concerned, is redundant, because we have provisions in our constitution that deal with bargaining rights. In fact, LIUNA's constitution covers most of section 138.2. It may not be used in a practical sense, but the language is there for that to happen, and we do not oppose the language that has been presented in the revised portion of Bill 80 with regard to 138.2.

Section 138.3, jurisdiction: Jurisdictional matters should remain the purview of the parent. The Ontario Labour Relations Board and the Ministry of Labour have made it clear on a number of occasions that jurisdictional review boards should be set up to alleviate the overwhelming burden of jurisdictional matters backlogging the Ontario Labour Relations Board. Why would the minister or the board increase once again, after saying that, the backlog of jurisdictional matters at the board?

Small local unions have a limited amount of resources to run their unions effectively. From time to time, a business manager cannot afford to pay for a business representative or even pay himself. The best interests of the membership are usually ignored and the local union deteriorates. Under these circumstances, a parent or international union can alter the jurisdiction through the constitution of that particular local in order to give the membership the best and most effective representation. The business manager would not welcome losing his empire, however small and ineffective, and will never consent to changes as outlined in 138.3 of the present language.

Large local unions on the other hand may have the same problems but for different reasons. Large local unions may become so large that the best interests of a member are not looked after. Acquired jurisdiction will usually be defended at all costs even if another local union can represent those members more effectively. Under Bill 80, an international is not permitted to alter geographic, sectoral or work jurisdiction of a local even if it is considerably better for the members to change and alter that jurisdiction.

Empire builders and overly aggressive business managers will be protected by Bill 80. Large local unions will use their resources to expand into new jurisdictions or possibly into jurisdictions previously established by other local unions within the same organization. The Ontario Labour Relations Board, with all due respect, has been ineffective at solving or curbing jurisdictional matters. Their knowledge of the construction sector is somewhat limited and should not have sole arbitrary decision-making over jurisdiction.

The right of the parent to charter new local unions does not seem to be addressed in Bill 80. Therefore, if a parent international charters a new local union within the same geographic jurisdiction, the parent does not have the right to alter the existing local union. In construction, the industry changes constantly. New technology, new material and methods of building change the industry at a dramatic pace. Parent internationals must maintain the right to oversee and change, if need be, the existing jurisdictions in order to be more effective.

When there is an absence of the parent international in jurisdictional matters, there is room for abuse by a local union. In Toronto, for example there is rivalry among local unions of the same trade because of overlapping or ambiguous jurisdiction acquired. If 138.3 is implemented as is, the parent will not be able to either correct, alter or change existing jurisdiction.

I'll give you an example. Non-union bricklayers in Toronto recently made a deal with one of our locals,

Local 183. One of our other sister locals, Local 506 in Toronto, has been excluded completely from tending these bricklayers. Furthermore, Local 183 has signed a recent agreement for residential construction locking in a new subcontracting clause that will not permit ICI masonry companies bidding on residential work.

Therefore, Local 506, which is a sister local within the same international, cannot go into the residential sector and has been locked out. If the parent international wishes to investigate this jurisdictional matter, it cannot do so under Bill 80. For Local 506, to move into that sector, it would require the international to intervene and exercise its authority and realign the jurisdiction in the Toronto area to be fair and equitable to the members in the Toronto area.

There are fast-growing jurisdictions within a local union structure. For example, if a local union has a small group within its organization, like emergency response workers or hazardous material cleanup experts, the parent should be able to charter a new local to handle the specialized area. With the proposed bill, the parent would not have the authority to do so because if certain local unions can prove that prior to May 1, 1992, they had that jurisdiction, we cannot create a new local union with that new jurisdiction that's being acquired.

On geographic jurisdiction in the province of Ontario, there are trade unions whose geographic area is the entire province of Ontario. For one, for example, the Operating Engineers have only one local union. There are some trade unions with a few large locals. Some of these locals are specialized in certain areas and have become provincial in scope. Some other locals have very large geographic areas. All of these complex and very unique circumstances have been set up by the parent or international.

In the majority of local unions polled in Ontario, very few follow Ontario Labour Relations Board areas for jurisdiction. They still go by the international's or the parent's geographic areas that were established. Because of the unique makeup of each local union, the parent has set up geographic jurisdiction depending on the local union's ability to represent the sector or area, the specialization of workers in the particular area and the obvious supply of workers in populations to that industry and other criteria used to determine the geographic area. This isn't done just on a whim. All those criteria are used when establishing geographic jurisdiction.

1730

If the intent of 138.3 is to restrict parent bodies from altering geographic jurisdiction when needed and required, this will impede the effectiveness of a local union to represent workers in the best way possible. The Ontario Labour Relations Board has no mechanism to monitor the needs of local unions or their members with regard to long-range planning on jurisdictional growth and development.

If the ministry is reviewing decisions made prior to May 1 as fair and equitable by the parent, why are future decisions being questioned and destroyed in 138.3? There is no evidence of abuse with regard to jurisdiction in the province of Ontario within our international union.

Presently, there are numerous grey areas of geographic jurisdiction. Section 138.3 will create absolute chaos where there are long-lasting agreements on geographic areas.

What 138.3 of Bill 80 does is take practically all the jurisdictional power away from the parent. What it does not do is what its original intent should have been, that being to protect the local union from being punished through jurisdictional means. In the province of Ontario there have been no significant abuses of this power to justify the current proposed language.

The LIUNA central Canada office respectfully submits that section 138.3 should read as follows:

"138.3(1) Jurisdiction shall remain the responsibility of the international as established in their constitution.

"138.3(2) When changing or altering jurisdiction, the parent or international shall notify the affected local union in writing, 30 days prior to the change.

"138.3(3) If a local union feels that changes to jurisdiction under 138.3(2) are considered unjust, then the affected local union shall have recourse for just cause to the Ontario Labour Relations Board, within 30 days of the jurisdictional change."

We feel this gives fair recourse to any local union which feels that it has been treated unfairly. I believe this should have been the intent of 138.3.

Section 138.4: We find this section confusing, especially in the absence of any notes accompanying the bill. As we understand 138.4, there is a danger that this section also deals with jurisdiction. If 138.4 gives a local union complete authority to expand jurisdiction and bargaining rights, then we are vehemently opposed.

Section 138.5: Our opinion is that supervisions or trusteeships and any other action should be for just cause. We cannot argue with the fundamental principle of 138.5. However, keep in mind that our constitution should also be taken into consideration and given a level of importance in running our own affairs.

Section 138.6: We are pleased to see that this section has been dropped from the bill in its amended form.

Section 138.7: This section deals with the appointment of trustees on benefit plans and it seems to be confusing and unfair. Proportionate representation on trust funds will lead only to large local unions dominating our plans. Since some of our plans are interprovincial, section 138.7 will cause confusion and politicking within the plans between provinces. Ontario is already perceived as hogging power. Ask any of our affiliates on the east coast, which are a minority; they feel that Ontario hogs everything, including the trust funds, especially Toronto.

If fairness is the ultimate goal of Bill 80, then we have given this committee a few suggestions on maintaining those areas of concern. However, I encourage you to carefully review the proposed language we have submitted and carefully review the proposed language for the second reading.

In every civilized country that follows a regular system of jurisprudence the actions of a parent could be scrutinized and acted upon by the affected group, if the



affected group was unhappy. That does exist in Ontario, and you heard some business managers of our own organization earlier tell you that they'd had recourse within the courts of Ontario. There is a course of action that can be taken, if need be. The courts have been involved in order to resolve these differences. Whether the courts or the labour board are better at addressing these disputes is questionable. However, the onus of proving just cause must be on the local affected, which ultimately has recourse, not the other way around. Serious consideration must be given to extend the bill to industrial and public sector unions.

In closing, let me remind the committee of the wishes of the majority. If democracy is truly to be served, then please look at the wishes of the majority and the information that I have enclosed. I bet many of our members across the province feel the same way about their own local union executives as some of the local unions which have come here in favour of Bill 80. Keep that in mind as well.

**The Acting Chair:** We've run over our time. You were a good 20 minutes, so I guess we'll have no questions. There is another group we want to run through here before we have to go to the House, if we can. I appreciate your time, sir. I'm sure you'll look forward to the rest of the hearings and what goes forward.

#### LABOURERS' INTERNATIONAL UNION OF NORTH AMERICA, LOCAL 837

**The Acting Chair:** The next group is the Labourers' International Union of North America, Local 837. Are they here? Yes, very good. Put your name on the Hansard, sir, and who you are and we'll carry on.

**Mr Manuel Bastos:** My name is Manuel Bastos and I'm the assistant business manager of Local 837 in Hamilton. As well, I'm a director of the Hamilton-Brantford Building and Construction Trades Council.

Labourers' Local 837 in Hamilton, Ontario, is the second-largest local outside of the Toronto area. We represent 2,500 members and workers in the construction industry. I thank the committee for this opportunity to submit our position with respect to the proposed amendments to the Labour Relations Act.

Our local union has communicated to Labour Minister Mackenzie on a number of occasions our position that Bill 80 is an intrusive and unfair bill that has caused nothing but problems for the construction trades. We oppose Bill 80, as do the majority of other building trade unions. If we do not want it, why are we forced to accept this language that is supposed to be good for us? We are all very suspicious of why the government public sector unions and the industrial unions are not affected by the bill. What is good for us should be good for them. As the saying goes, "What's good for the goose should be good for the gander." There should not be a double standard created. This is another clear example that the government is interfering in an area that it knows little about. The Ministry of Labour should have gone to the building trades and asked our advice before proceeding.

I will present our opposition to Bill 80 section by section.

Section 138.1(3): We believe that our constitution is sacred. We do not agree that the government will override our rules of order. We find this intrusion uncalled for and unfair. Our constitution is fair and created by our members; this is democracy. This is a clear attack on the democratic principles of our union. All decisions must be based on our constitution. Government should use our constitution as a guide as to how the business of a union should be run.

#### 1740

On jurisdiction, sections 138.3 and 138.4: Local 837 believes that this is the most detrimental and harmful part of Bill 80. Our autonomy has been preserved because of our ability to control our jurisdiction and to run our own affairs without government interference. Jurisdiction must be controlled by the international. If it is in the hands of the individual local unions, then we will see abuse and some locals taking advantage of others. We've seen some examples right here in the city of Toronto. Our local, for example, has been threatened by Toronto several times. If it was not for the intervention of our international, Toronto would have taken over some of our jurisdiction.

When a local union is not satisfied with a decision made by the international office with regard to jurisdiction or anything else, then the local union can appeal to our constitution for investigation by a vice-president, the general executive board and, eventually, a trial board. If Bill 80 provides for recourse for just cause, we would not find that offensive; however, the circumvention of our constitution is offensive.

The ministry should repeal the bill. The bill should not become law for the simple reason that the majority does not want it. The building trades, as we've heard before, voted against the bill two years in a row, in 1992 in Kingston and in 1993 in St Catharines. I do not think that it is fair that the majority are being ignored.

If the bill will become law in one form or another, then there must be changes such as: (1) that our constitution be the most important factor in determining just cause or actions of the international or local unions; (2) that jurisdiction be removed from the bill and left in the hands of our respective organizations; (3) that if recourse is given to a local to dispute jurisdictional change, then the constitution shall apply; (4) extend Bill 80 not only for construction but also to public sector unions as well as to industrial unions.

In the last 30 years I can only think of a few instances when local unions have been in a conflict with our international headquarters. We have heard previous speakers tell you that it was for the reason that the international rep was—I believe the word used was "stupid." If you look at the circumstances and the people who were involved, that will tell you the story. Perhaps that's why the business rep was called, I believe, "stupid."

Bill 80 will not change personalities from clashing. In its present form I think it will make things worse. I encourage this committee to please reconsider the bill. Listen to the majority of the building trades. If it must pass, please consider our concerns and also extend the bill to government and industrial unions.



As well, I have given this committee a copy of the submission of our sister local, Local 527. Local 527 was not allotted a time to present its brief. I have presented their written submission to the committee. I thank you for the opportunity to make this submission.

**The Acting Chair:** Thank you very much, sir. We'll open the questions. I believe it's your turn, Ms Murdock. You have three minutes for each caucus.

**Ms Murdock:** We've heard all kinds of presentations here in the last few weeks. Some of them have been real horror stories. Obviously, you haven't had that experience. Not all constitutions from all unions are the same, true?

**Mr Bastos:** Probably true.

**Ms Murdock:** You make a comment on page 2 that you have an appeal mechanism through your constitution to eventually get to a trial board.

**Mr Bastos:** That's right.

**Ms Murdock:** How long a time frame are we talking here?

**Mr Bastos:** I guess it depends on the urgency of the matter. It can take from three to six months. We haven't seen it used that often. Usually, problems get resolved at the local level fairly quickly.

**Ms Murdock:** The other point that you've made, and actually has been made by a number of presenters both pro and con the bill, is that there haven't been many instances when there have been really bad disputes with the international, the point being that when you do have one there is no mechanism, other than their conventions every either four or five years, to get it resolved—if it can be resolved, even.

I guess what I'm saying is, if you're not having a problem with your international and you can work these things out, then you would probably never apply—presuming Bill 80's in place—under Bill 80. Would that be fair?

**Mr Bastos:** That's fair. I'd like to add to it that I guess we've all heard of Local 1059 back in 1982 and Local 506, and recently we've had a sister local union, Local 1081, ask for supervision; asked the international to go in and supervise them. I believe the international was in there for six months and did resolve the problem. An election was called and the members decided. The constitution was followed and the problem was resolved.

**Ms Murdock:** If you have that kind of constitution.

**Mr Bastos:** The Labourers do.

**Ms Murdock:** Yes, and I think that point has been really made, that you obviously have had a really good working relationship for the most part.

**Mr Bastos:** If I may add, in every group of people there is good and there is bad.

**Ms Murdock:** Oh, yes.

**Mr Bastos:** There are faults in everyone.

**Ms Murdock:** Yes.

**Mr Bastos:** There are faults from the top down and from the down up. So are we going to penalize, are we going to criticize, are we going to damage the good ones

because of a few bad ones? Are we going to penalize the good ones because of a few bad ones?

**Ms Murdock:** But all law is enacted—I mean, when you think of any kind of law, regardless of whether it's this bill or any other, generally speaking, even your Highway Traffic Act, your Criminal Code—for the exceptions, not the rule. That's the reality of this world. If everything was going along well, you would never have to enact the law, but you always hit these snags and then someplace you need to put that.

I make that point. I know that we have heard time and again from our friends opposite, and from a number of others, that this should not be happening. I must admit, in the original form I had some difficulty, but I think this, as it stands, is workable. Those unions that don't have any difficulty with their international parent will probably never have to apply.

**Mr Bastos:** The only problem that I find with that line of reasoning is that when you give the power that you're trying to take away from the internationals to bureaucrats, I have a great degree of difficulty believing that. We've seen decisions recently at the labour board that are scary. Without hearing any evidence to the contrary, they sided with the contrary, without hearing evidence that the jurisdiction in a certain—in demolition, by example, the evidence presented was all Labourers and a dissenting decision comes down and it's only for the reason that the Labourers don't have a claim solely. It's not only the Labourers that have a claim on demolition; the other building trades have it too, and that was not the case.

It's scary to see the labour board with the power to alter jurisdictions when it, based on the evidence presented, goes against what it's heard. That's the scary part about this.

1750

**The Acting Chair:** Okay?

**Ms Murdock:** I could ask more but I know I don't have time.

**The Acting Chair:** Sure. Mr Murdoch.

**Mr Murdoch:** I sort of challenge your remarks where the majority is against this bill. I would have to think, and by sitting in this committee, that the majority is in favour of this bill, but I think we could probably go back and forth on that all day.

I'd like to agree with Ms Murdock over there that if your union and your international are getting along, then this bill won't affect you that much. If you already have a good relationship, this bill doesn't say that you have to have a bad one. How then do we address all the other concerns of all the other locals that have come in here that have had problems with their international? Do we just, as a government, overlook that and all those problems will go away? Because obviously they don't seem to go away.

**Mr Bastos:** No, we should not overlook them. However, should not the parents and the families of the locals and the internationals involved have a chance to resolve it first before it's referred to the OLRB?

**Mr Murdoch:** By sitting here and listening to all the

local unions, they've obviously tried that, and all the tactics that have been used against them—we've had some locals sit here and say that if this bill doesn't go through, their jobs are gone. They're going to be kicked out. They're going to be forced to leave because they've just challenged the parent union by coming here. So if that's the case out there, I don't think as a government here we could let that happen.

**Mr Bastos:** Those are the scare tactics; that is the scaremongering by the other side, and yet they'll come here and they'll tell you that the people opposed to this bill are the ones who use the scaremongering. We're not telling you that we're going to lose our jobs or that I'm going to get a promotion or whatever. They are telling you that if you don't pass this law through, they'll lose their jobs. They'll tell you that's the boomerang that will come back and get them. If those are not scare tactics, then I'm sorry, but I—

**Mr Murdoch:** What would you call scare tactics when the international comes here and tells us that there'll be chaos out there if we pass the bill? So it works in reverse, and we've heard from a lot of locals and they have said, "Hey, we've got problems there and we need your help." That's unfortunate. I don't agree that we should have to come to the government for help. It's too bad that they couldn't work them out, but obviously they've tried. It's so overwhelming, the amount of locals that have contacted me and that have come here and said, "Hey, we really need this."

Again I can say, maybe you don't have that problem, so it won't hurt you. I don't see how it's going to hurt you any. You have a good relationship. You'll be able to keep that going. You've worked it out.

**Mr Bastos:** That is our case.

**Mr Murdoch:** So that's good, but we have some problems in the other ones. I talked to the Labour minister and asked him why he was putting this through, and he said he had sat in opposition for a long, long time and that he's heard the complaints year after year and finally, now that he's the minister, he has a chance to do something about it.

I strongly believe in local autonomy. There was one thing you were saying, how the international could come in and change a jurisdiction. Well, I think the local people know more about their jurisdiction than the international does. I've always felt that in anything and I could relate it to other things.

Sometimes maybe the local people do know what they're doing and it almost tells me that the international is saying: "We're the parent. We know everything and the little local guy doesn't." I'm offended by that.

**Mr Bastos:** You've said a mouthful.

**Ms Murdock:** It's hard to answer that one.

*Interjections.*

**Mr Bastos:** We are fortunate with the labour union, that on our part we don't have a lot of those problems.

**Mr Murdoch:** Hopefully that stays that way.

**Mr Bastos:** If you look deep down at the reason for the bill, everyone knows who proposed the bill. Everyone

knows who's behind the bill. There are no secrets. All those people wanted to create their own empire, the emperors, and Bill 80 would be their way, would be their secret weapon to conquer it, to accomplish it, to get to the end of it.

**Mr Murdoch:** Say who you think. I'm here to listen.

**Mr Bastos:** I think that we've all heard it. There's no reason for me at this time—

**The Acting Chair:** Okay. Thank you. On a point of clarification, Ms Murdock.

**Ms Murdock:** Just a clarification: With the notice provision under section 138.3, proposed amendments—I understand some people have copies. That would mean then that any change to jurisdiction work or sector would have to be given notice by the international to the local, and that nothing would change pending that notice, so it would give some opportunity. For instance, in your case where you get along with your international, if you didn't like it I'm sure you'd work something out, but for those locals that didn't like it, they would have an opportunity to appeal to the OLRB.

**Mr Bastos:** I think the process is in reverse. It should be first through the international, first through the parent, and then through the OLRB.

**Ms Murdock:** Yes, you can still do that. There's nothing prohibiting that from being done in terms of discussions that occur beforehand, but once that notice is given, then you have an opportunity to go to the board. If you've got a good working relationship, you can do that already.

**Mr Bastos:** I don't really have a problem.

**The Acting Chair:** As this committee should be, good discussion on all sides, and it's enjoyable to be here in the chair. We now are at the point, though, we may have a vote and I'm looking for some direction from the committee. We have the Ontario Allied Construction Trades Council, and they have to be away at a meeting. I understand, at 7:30, so we can either move on and then we'll just wait and see if the bells start and we may have to leave, if that's okay, or the other option is we'll just wait. Do you want to start and see what happens?

**Mr Murdoch:** Why don't we just ignore the vote? We're not going to win it anyway. We can carry on here.

**The Acting Chair:** So much for local autonomy.

#### ONTARIO ALLIED CONSTRUCTION TRADES COUNCIL

**The Acting Chair:** All right. We're going to make a decision here then that if it's all right with my colleagues I take it that we'll start, and hopefully we'll get through before we have to get on, so would the Ontario Allied Construction Trades Council please come forward. Put your name on the record and your position and we'll try to get 20 minutes of your time through here.

**Mr John Marchildon:** I'm John Marchildon, business manager, secretary-treasurer of the allied council. For Mr Cooper's benefit, I'm not on the payroll of any international union.

The Ontario Allied Construction Trades Council, hereinafter referred to as the council, is made up of the



following affiliates: United Brotherhood of Carpenters and Joiners of America, Labourers International Union of North America, International Association of Heat and Frost Insulators and Asbestos Workers, Operative Plasterers and Cement Masons International Association of the United States and Canada, International Union of Operating Engineers, International Brotherhood of Painters and Allied Trades and Teamsters Canada.

The council was formed in 1974 to enter into collective bargaining with the Electrical Power Systems Contractors Association. The bargaining rights are held by the respective international unions. The running of the council on a day-to-day basis is largely in the hands of the local unions. Decisions are made by democratic vote by the delegates to the council. The international unions appoint their delegates and alternate delegates. The local delegates and their alternates are chosen by the local unions, usually through their respective district or provincial bodies. All delegates, local and international, have a vote on all issues before the council, including all collective bargaining issues, whether or not to proceed to arbitration, elections of officers, the selection of the business manager, policy issues and the finances of the council.

At its regular monthly meeting of October 9, 1992, the council regularly moved, seconded and carried the following motion: "that the council go on record as opposing Bill 80 in its entirety."

The meeting was attended by three international union representatives and eight local union representatives. The motion was passed with only one local representative dissenting.

The council is opposed to Bill 80 on the basis that we do not believe that any government has the right to interfere with our constitutions. We have studied the constitutions of other non-construction unions, political parties, including the New Democratic Party, and non-international construction unions and we can find no appreciable differences in them in dealing with the situations that this legislation is supposedly attempting to rectify.

A fundamental problem the council has with Bill 80 is the process by which it was introduced. In our lobbying efforts we were surprised to hear, in response to our complaint over lack of consultation, that the NDP government did not even allow its labour caucus consultation prior to introduction of Bill 80 for first reading.

1800

Although we are not aware of the number or structure of meetings the Ministry of Labour has held with the pro-Bill 80 minority, we do acknowledge that it has had several meetings with the anti-Bill 80 majority. To characterize these latter meetings as consultation is just plain nonsense. We would characterize these meetings as the government telling us, "You are the villains and here's what we're going to do about it."

As far as we're aware, the proposed amendments to the bill originated from the pro forces. When we asked the government for specific examples that precipitated the introduction of Bill 80, they were not supplied or we

were advised that the pro-Bill 80 complainants feared for their political and indeed physical safety. No examples were provided.

No national or provincial labour body has voted in favour of this legislation. We find the remarks by a member of the committee that delegates to the last provincial building trades convention somehow did not know what they were voting on an insult to the duly elected delegates to that convention. We wonder what Mr Cooper's appraisal of the intelligence of the delegates would have been had the delegates voted to support Bill 80.

We find it particularly distressing that any government in Canada, especially one that used to be considered pro-labour, is the subject of a complaint to the International Labour Organization in Geneva.

A question we repeatedly asked NDP members of the Legislature is, why only the international construction unions and not non-international construction unions, international industrial unions or simply all unions? No reasonable or consistent answer was given to this question. Perhaps this government is using the construction trades as a prototype. If this form of so-called union democracy is good for the international construction unions, it should be extended to all unions. Ms Murdoch would agree with me, I assume, because if they don't have complaints, what's the problem?

On behalf of the members of the council affiliates, we would like to extend our gratitude for allowing me to make this submission to you.

**The Acting Chair:** We'll open up the statements. I believe it is the Liberal caucus's turn first. No comments? Mr Murdoch, do you have any? For the record, we're going to have to leave in about eight or nine minutes, so please keep them short and sweet.

**Mr Murdoch:** Again, I wonder where you get your statistics about who agrees and who doesn't agree, but we could probably argue about that all night.

**Mr Marchildon:** We've presented it to you in writing many times, Mr Murdoch.

**Mr Murdoch:** Yes, but I'm going by what I hear too, though. I get your submissions, which are fine, and then I hear from a lot of other people who are in favour of the bill.

**Mr Marchildon:** Which statistics do you want to know about? I can tell you their source.

**Mr Murdoch:** I guess we'll go back to the one before you. He was saying that everybody at the convention voted against the bill.

**Mr Marchildon:** Yes.

**Mr Murdoch:** I'm just saying that you represent a bunch of people who are against the bill. On the other hand, I hear from a lot of people who are for the bill. In your mind, and that's fine, you think the majority of the people are against this bill.

**Mr Marchildon:** At all those conventions there were people for and against. They were given adequate time under parliamentary procedures to express their opinions and they were soundly thrashed in every vote.



**Mr Murdoch:** Okay, I would have to agree with you; I wasn't there.

**Mr Marchildon:** I was.

**Mr Murdoch:** Okay, fine. I'll take your word for that.

**Mr Marchildon:** Thank you.

**Mr Murdoch:** I'm saying, though, that as a politician I'm hearing from the other side also at these committee hearings. We've had a lot of people come in and a lot of locals saying they are in favour of this bill. To me, then, there seems to be a lot of dissatisfaction out there.

**Mr Marchildon:** There's a recession on.

**Mr Murdoch:** I understand that.

**Mr Marchildon:** Working people are dissatisfied during a recession.

**Mr Murdoch:** You think that's why they're blaming the internationals? Is that what you're telling me, because there's a recession?

**Mr Marchildon:** I think a lot of the complaints are recession-driven. In my opinion, if this government wanted to do something for us, it would put a meaningful fair wage policy in.

**Mr Murdoch:** I'm not going to defend this government. It's not my job here to defend them. I'm here to listen to people like yourself.

**Mrs Fawcett:** I wondered about that.

**Mr Murdoch:** Well, there are some people who are concerned that, because I may support one bill this government brings in, I'm defending it, and that's not the case. I wonder why this government is bringing in the bill. I've never been answered that and probably will never get an answer to that.

**Mr Marchildon:** We have something in common.

**Mr Murdoch:** Yes. At this point, though, I do support the bill because I think it gives some of the local people a chance to express their concerns. We've heard a lot of stories here.

**Mr Marchildon:** Stories, yes.

**Mr Murdoch:** Do you just think they're stories then? Do you want to put that on the record?

**Mr Marchildon:** Yes, I think some of them have been embellished.

**Mr Murdoch:** You do? Okay, you have a right to say that.

The other point is, I too think this government does not consult a lot of the times before it brings in a bill, but this is the process here now. They are consulting and they're giving, as you can see, the list here. We've been going through this for about three weeks now. A lot of people have had a chance to come in and explain their positions on it now. The bill can change. We will go through clause-by-clause, I assume, next week.

**Mrs Fawcett:** They're bringing in closure, you'll remember.

**Mr Murdoch:** I don't agree with that either, the closure. That's unfortunate.

**The Acting Chair:** You have 10 seconds.

**Mr Murdoch:** Okay. Why have we got no time?

**The Acting Chair:** We need five minutes to get to the House, in all seriousness.

**Mr Murdoch:** Okay. Then I'll just let it go and you can go on because Mike's got some questions, I think, to answer.

**The Acting Chair:** I think Len's got a question.

*Interjections.*

**The Acting Chair:** Everybody wants to be the Chair. Mr Wood and then Ms Murdock.

**Mr Wood:** On page 2 of your brief, you're saying that there was no discussion with the labour caucus or consultation prior to Bill 80. That is wrong. There was a discussion with the labour caucus and there was a discussion with the government caucus in total before the legislation was introduced into the House.

**Mr Marchildon:** On behalf of Ron Hansen, I apologize.

**Mr Wood:** These consultations have been going on for quite some time. So I just wanted to correct that.

**Mr Marchildon:** I just can go by what MPP Ron Hansen advised us in his office.

**Mr Wood:** Ron Hansen was probably not at that particular caucus meeting or labour caucus meeting. I was there.

**The Acting Chair:** We've got that on the record. Thank you very much. Next question.

**Ms Murdock:** Just very quickly, the whole construction industry is under the Ontario Labour Relations Act in a separate section, correct?

**Mr Marchildon:** Provincial construction, yes.

**Ms Murdock:** Why is that?

**Mr Marchildon:** Because it's specific in its nature. Why are we set aside as a particular sector?

**Ms Murdock:** Yes.

**Mr Marchildon:** It's because primarily we have a much different structure of referring people to work than industrial unions. We have hiring halls as opposed to unionizing jobs. We have much more mobility, a totally different structure in terms of getting people to work and how we unionize companies.

**Ms Murdock:** This leads into his last page.

**The Acting Chair:** Okay, hurry up. Keep it quick. Carry on.

**Ms Murdock:** If you think I'm going to let this pass, you're crazy. The whole construction industry is so different. I understand that other, non-construction unions are unionized, in terms of their constitutions, on an international basis as well. They're all very different, but would you not agree that because the construction industry is separated in the OLRA it would make sense that this would also be applied to the construction industry alone?

**Mr Marchildon:** I'm not sure I understand. Because we're different, we should get different treatment; is that what you're saying?

**Ms Murdock:** You are getting different treatment.

**Mr Marchildon:** Absolutely, we are.

**Ms Murdock:** No, but you are already under the existing OLRA.

**Mr Marchildon:** But not in terms of our constitutions. The different treatment under the OLRA does not arise from the differences in our constitutions. Our constitutions are ultimately the same. I've been a member of two international industrial unions and two international construction unions, and there is no appreciable difference, if any, in their constitutions on the ability of the elected executives to take action against the local.

**The Acting Chair:** Thank you very much. You asked your question and he did answer it. Mr Cooper, you have two minutes.

**Mr Cooper:** In the middle of page 2 it says, "We wonder what Mr Cooper's appraisal of the intelligence of the delegates...." If in any way at any time I've slighted anybody because of the way they've voted on an issue, I'm not aware that I've made any comment.

**Mr Marchildon:** I watched you on television arguing on time allocation. You made the statement, as far as I recall it, that the people who voted against Bill 80 at the last provincial building trades didn't even know what they were voting on. I was there; you weren't.

**Mr Cooper:** I will check Hansard.

**The Acting Chair:** Thank you for your time. We now have to go to vote. Would all the members please come back as soon as possible after the vote to continue. Just get back here as soon as you can after the vote, please.

*The committee recessed from 1808 to 1843.*

ONTARIO PROVINCIAL COUNCIL  
OF THE UNITED BROTHERHOOD  
OF CARPENTERS AND JOINERS OF AMERICA

**The Acting Chair:** Continuing our debate around Bill 80, we will now hear from the Ontario provincial council of carpenters, Quintin Begg, president. Please come forward, make yourself comfortable, and when you're ready you may proceed. If you would please indicate who you are for the purposes of Hansard and committee members, it would be appreciated.

**Mr Quintin Begg:** My name is Quintin Begg. I'm the president of the Ontario provincial council of carpenters. On my right I have the secretary of the Ontario provincial council of carpenters, Bryon Black.

**Mr Bryon Black:** Brother Begg and myself appear before you this evening representing the Ontario Provincial Council of the United Brotherhood of Carpenters and Joiners of America. Quintin has stated he's the president and I'm the secretary-treasurer. We are both journeymen carpenters employed as business managers in construction local unions as well. Quintin's from the Lake Ontario district council area and I'm from the Goderich region.

We'd like to express to you the concerns the Ontario provincial council of carpenters has regarding Bill 80 and as members of local unions affiliated to the Carpenters international union.

The Ontario provincial council, chartered September 1, 1915, is the provincial coordinating body of the United Brotherhood of Carpenters and Joiners of America,

representing 23 Carpenters locals and eight Millwrights locals in the province of Ontario. The membership of our union consists of 23,000 carpenters and millwrights, making the united brotherhood one of the largest building trades unions in the province.

The Ontario Provincial Council of the United Brotherhood of Carpenters and Joiners of America is opposed to Bill 80 in its entirety, a position adopted at a "special called" meeting of all construction affiliates conducted August 1992, and emphasized to the honourable Minister of Labour in a letter dated September 30, 1992, which is attached in appendix A.

The Ontario provincial council would also like to go on record as supporting the submission presented to the committee by the Building and Construction Trades Department, AFL-CIO, as submitted by the executive secretary, Mr Guy Dumoulin.

The Ontario provincial council is disturbed with the fact that no previous consultation was held with respective construction trade unions prior to the introduction of Bill 80, and to this day we are not aware of the real necessity of Bill 80. We would like to emphasize the fact that through Bill 80, the government is intruding into union constitutions.

The United Brotherhood of Carpenters and Joiners of America has just concluded a constitutional convention in Las Vegas, Nevada, whereby delegates throughout North America voted democratically on resolutions to formulate a new constitution and laws for the United Brotherhood of Carpenters and Joiners of America. Prior to the constitutional convention, constitutional hearings were held throughout the United States and Canada in order to permit every local union and district council, large or small, to have their democratic right to voice concerns or submit their proposed amendments to a constitutional review committee. Constitutions are the private rules of an organization presented and adopted by their membership, and government must not be permitted to interfere.

Basically, what we're saying is that we're happy with our constitution and the way it was formulated.

We would like to take a few minutes to address our concerns with the proposed revision of Bill 80.

Subsection 138.1(1), which is jurisdiction, includes geographic, sectoral and work jurisdiction. We question why the word "work" is required in jurisdiction. Currently, construction trade unions have recognized decisions of record, international agreements and established work practices to establish proper work assignments. The Ontario Labour Relations Act, section 93, currently provides for a board review of alteration of work assignment and arbitration of jurisdictional disputes between craft unions. Our recommendation is that the word "work" be deleted from the definition of jurisdiction.

Subsection 138.1(3): We feel this proposed section is totally unnecessary due to the fact that a trade union constitution cannot contain provisions which are contrary to the Ontario Labour Relations Act, or any other act for that matter; ie, Employment Standards Act, freedom of information act, human rights.

Subsections 138.2(1), (2) and (3), right through: If we



understand the provision of section 138.2, Bill 80 is going to remove all bargaining from international unions, properly termed as parent trade unions. Currently, the United Brotherhood of Carpenters and Joiners of America has collective agreements in the name of the international union re the heavy construction sector and electrical power systems sector. We are quite content with this arrangement due to the fact that local unions and district councils affected by the agreements are on the bargaining committees and conduct the negotiations.

The last thing trade unions need today is more trade union councils. As you are well aware, more trade councils require more administrative costs, which require more per capita tax on the working member. Due to the current economic recession and high unemployment, the last thing we need is more taxes for the working member.

Currently, the Ontario provincial council is the designated bargaining agent for all journeyman and apprentice carpenters for all local unions and district councils in the industrial, commercial and institutional sector of the construction industry in the province of Ontario. Under section 138.2, local unions and district councils stand the risk of losing their current local bargaining autonomy.

For example, at the present time, local unions and district councils are allowed to negotiate their own respective residential agreements to suit the needs of the industry in their particular board area. What is being proposed under section 138.2 is that the bargaining councils be established to negotiate collective agreements, in all likelihood on a provincial scale. I am sure the committee is well aware of the particular problems being experienced in ICI provincial bargaining.

The Ontario provincial council strongly urges the deletion of section 138.2 due to the above comments.

**1850**

Section 138.3: We are confused with the intent of section. Does this section mean geographic jurisdiction? If this is the intent, then we have a difficulty with section 138.3.

As you can appreciate, under the current difficult economic times due to declining work opportunities, membership numbers have fallen. As a direct result, a number of smaller local unions have had difficulty in maintaining existing staff due to financial difficulties, and in the best interests of the membership and brotherhood have merged into larger local unions or councils. The Ontario provincial council is confident with the powers of mergers outlined in the Carpenters' constitution which has been established by the democratic rights of every member and is subject to appeal to our general executive board and courts of the respective jurisdictions.

Section 138.5: Currently, the United Brotherhood of Carpenters and Joiners of America's constitution contains supervision and trusteeship provisions which are subject to proper investigation by a specially appointed committee which reports its findings and recommendations to the general executive board of our parent union. The general executive board is empowered to take such action as necessary and proper for the welfare of the United Brotherhood of Carpenters and Joiners of America.

However, such action is subject to the right of appeal and subject to review by the board under section 84, Ontario Labour Relations Act.

The Ontario provincial council, UBCJA, cannot relate to a situation where this provision has been utilized or exercised against the best interests of our membership. This provision is only exercised to prevent local unions and councils operating in a manner which is contrary to our constitution and laws or not in the best interests of the membership.

We are of the opinion that due to the fact that the board reviews the parent union's supervision under section 84 of the Ontario Labour Relations Act, the board's power should not be expanded as suggested by section 138.5.

In conclusion, the Ontario provincial council of the United Brotherhood of Carpenters and Joiners of America once again is opposed to Bill 80 in its entirety and respectfully urges this committee to recommend to the government that Bill 80 be rescinded.

Respectfully submitted, Bryon Black, secretary treasurer.

I've attached, as outlined in our table of contents, various letters that were sent to the Honourable Bob Mackenzie not only by our council but by our affiliated local unions opposing Bill 80. Also, the last page of the document is a letter which is from our Canada conference of carpenters, which represents all the carpenter local unions across Canada.

So that's our presentation.

**The Acting Chair (Mr Paul Johnson):** Thank you, Mr Black. We have about four minutes per caucus. We'll start with—

**Mr Mahoney:** For the two or all three?

**The Acting Chair:** Mr Murdoch is here. We have four minutes per caucus, and we'll start with the Liberal caucus.

**Mr Mahoney:** Thank you for the presentation. Every time I think I understand this whole thing, somebody comes up with something new or a new way of putting it and I learn something.

Your statement on page 5 here, your example, reads, "At the present time, local unions and district councils are allowed to negotiate their own respective residential agreements to suit their needs." What's being proposed, as you're saying, is that bargaining councils, which would be separate over and above the local and the district council—I presume that's the interpretation—be established to handle the collective agreements and on a provincial scale. Mr Murdoch will make a point, and does often, that he supports local autonomy. Am I reading this wrong? Is this actually taking away from the local autonomy and vesting the bargaining rights in some new provincial council that's not going to be concerned about the workers particularly in Grey-Bruce, on their own, at a local basis, but is going to look rather at the carpenters, in your case, for all of the province of Ontario and not really take into account local problems?

**Mr Black:** That's the way we interpret it, yes.



**Mr Mahoney:** So in reality, under that interpretation—and it seems to almost be open to interpretation on a local-by-local basis—this would do the opposite of supporting local autonomy.

**Mr Black:** That's right, and not only that. Like we stated earlier in our submission, these councils can't operate without any funding, and right now I think everybody's taxed to death.

**Mr Mahoney:** So they're going to be funded by your members?

**Mr Black:** Right.

**Mr Mahoney:** So a percentage of their union dues are going to have to go to fund these councils, unless the government's sending a cheque with Bill 80.

**Mr Black:** Yes.

**Mr Mahoney:** Which I highly doubt.

You also use the example about the appeal procedure that's already there. On page 6 you say, "The Ontario provincial council is confident with the powers of mergers outlined in the carpenters' constitution which has been established by the democratic rights of every member and is subject to appeal to the general executive board and the courts of the respective jurisdictions." You go on to say that there can be in any instance proper investigations, specially appointed committees that report the findings to the general executive of the parent union, which is the international, and then they can take action.

We've been hearing from members of unions in support of Bill 80 that they don't see any way that the international would give up any of these rights, that they can't make deals with these people, that they're grabbing the power and keeping it, either in Washington or Pittsburgh or wherever they happen to be, and yet you seem to have resolved that problem.

**Mr Black:** All I can relate to you is our particular constitution. That's the way it is worded and that's the practice that's followed. If there's a complaint, there has to be a committee established to go in and review the circumstances and report back to the general executive committee. If there is a particular decision rendered that is, in the opinion of the local union, being put under question, they have the right to even go further with that appeal on their own.

**Mr Mahoney:** Are you familiar with the ILO convention? I don't have it in front of me, but to paraphrase, it says that public authorities shall not interfere in unions' constitutions. It may not use that exact wording, so I apologize, but—

**Mr Cooper:** Formulation of—

**Mr Mahoney:** Formulation of policies and that type of thing. There is, I understand, a challenge that will be filed after Bill 80 is passed under the ILO convention, but the purpose of it is to say that governing bodies—the government—shall not interfere in the democratic process in the labour movement. (a) Are you familiar with it? (b) Do you support it and do you have any comments about it?

**Mr Begg:** Yes, we are supportive of it. We've heard of it, we know of it and we are supportive of it. But we

believe that unions, within their own bodies, should have their own rules and constitution and no external body should be able to interfere in the rules and regulations voted democratically by the membership.

**Mr Mahoney:** Once this is passed and they've interfered in the relationship between the locals and the internationals, or the parent unions, could the next step be to empower locals over a national parent? Could it be to empower members over a local? Do you think this could be the thin edge of the wedge? We're talking the construction trades. I think it was the president of the OFL who said that if the bill is good for construction unions, it's probably good for all unions, so they may expand it, although I suspect Leo would come back from Pittsburgh in a hurry to put an end to that.

But do you think there's a possibility, now that you've clearly pointed out to me that this in fact endangers local autonomy, that this thing could be carried further either by this government or future governments, and do you fear that?

**Mr Begg:** Very much a fear. As I said at the very beginning, we did not get any consultation with Bill 80. We just started reading about it after it was a fact, and we were very much concerned about these concerns you raise. We think it could go further with consecutive governments coming on line. We feel as though if one person can alter one part of the constitution, then the next guy's going to alter it again and again. So we have a real concern about it.

**Mr Murdoch:** I'm sorry I missed your presentation, and that's my fault, so I can't ask a lot of questions. But I heard Mr Mahoney mention that he thinks this will take away from the local autonomy. I disagree with you, and that's fine. The one thing I noticed is you mentioned it may cost them more money. Maybe there will just be less money going to the States. Maybe that will be a solution too. They don't have to pay any more, but they'll just send less to the States. Do you think that might be an alternative?

**Mr Begg:** Well, I can answer that for you right now. We're in such a bad state in construction right now, we're sending letters to the States to try and get some money from the States. That's the current situation. We're trying to borrow money from the States right now, as Bryon pointed out.

**Mr Murdoch:** Are they going to lend you some?

**Mr Begg:** Yes.

**Mr Murdoch:** That's good.

**Mr Begg:** We're looking for loans from anybody.

**Mr Murdoch:** Maybe you don't have any problems, then. We were told earlier today that some of the internationals don't feel they have a problem with their locals, and that may be so, so I don't think this bill will hurt you much.

You're pointing out that you're concerned with government getting involved. I too have that concern, but how do you address all the concerns that other locals have had? How would you guys address that? We've had many people come in here from different locals saying that they have problems with the internationals and they

feel they're not being treated fairly there. So how would you address that? This is what the government's for, to help people out.

1900

**Mr Begg:** We have always felt that each building trades union within itself has the right to look after its own business. We as the Carpenters' union certainly don't go along the road to other unions and tell them how to run their affairs. We are quite happy. As Bryon said, we've just come through a constitution review in our union. We've got a brand-new constitution, effective January 1, 1994, and we have made changes in there democratically.

**Mr Murdoch:** Which doesn't include, though, anything that's in Bill 80.

**Mr Begg:** No. We have always had the mechanisms in Bill 80. Our union, since I can remember, and I'm talking 25 years now, there is a mechanism in there where if a local union doesn't want to be merged with another local union, it has an appeal process. If it can't be resolved within the constitution of the United Brotherhood of Carpenters and Joiners, then it's free to go to the Ontario Labour Relations Board for an outside decision on the matter. As I say, that could happen tomorrow morning.

**Mr Murdoch:** We're hearing from a lot of people who disagree with you on that. I'm not saying with you in particular, but—

**Mr Black:** You come from the Grey county region, right?

**Mr Murdoch:** Yes. Grey-Owen Sound.

**Mr Black:** What unions are in your jurisdiction that are concerned?

**Mr Murdoch:** The electrical ones are the main ones.

**Mr Black:** I'm not aware of any electrical union in Grey county.

**Mr Murdoch:** No. The ones in our county belong to a different local. They don't belong to the local of Grey, no.

**Mr Black:** They're from Toronto, right?

**Mr Murdoch:** But they do live in Grey and they are constituents of mine. When they're concerned, it's my job to bring their concerns to this Parliament. That's what I believe about local autonomy, you see.

**Mr Black:** Right, but that member is also party to a local which does not support Bill 80, IBEW, Local 773.

**Mr Murdoch:** They're also my constituents. There's more than one. One wrote a letter, but there are more than one. Again, if you're not having a problem, then I don't see why you fear this bill. There shouldn't be any fear to it.

**Mr Black:** We can't understand why there's a problem with the constitutions that exist today with the trade unions. We have no problem with ours. Like Quintin related earlier, we had a constitutional convention to correct any concerns we had, and I think other trade unions have the same opportunity.

We have not been told by anybody why this bill was introduced. You can call this a consultation hearing, but

why wasn't there any consultation prior to the bill being introduced? That's a big bone of contention we have.

**Mr Murdoch:** It's the man at the front you'll have to ask that question to. I'm only here as a—

**Mr Begg:** It would have been kind of nice for each local with the international union to produce its constitution and for you to look at all these constitutions and see what the problem was. So if it was 2% of the constitutions that had a problem, which I suggest it might be, then this thing shouldn't be here.

**Mr Murdoch:** If you look at some of the other figures and the number of locals that have come and said there is a problem, I think it's more than 2%. There are figures that it's 85%.

**Mr Wood:** I've looked at your correspondence there and it seems like it's correspondence that has been going back and forth between yourselves and the Ministry of Labour over the last 17 months, discussing Bill 80. We've heard some comments that there wasn't enough consultation, enough dialogue that's gone on, but 17 months is a fairly lengthy period of time. I believe it took about 18 months for Bill 40, from the time it was introduced in the Legislature until it became law. So we're talking about a time span that is quite lengthy.

I was just wondering if you had any reaction to that. It's not something that was sprung on. At that time, I understand there was an indication that during discussions back and forth, which have taken place for about 17 months, there probably would be amendments that have been brought forward from what the original bill looked like. I'll just leave that there for comment, if you have any.

**Mr Black:** If I understand your question correctly, you're saying that we have had proper consultations. Is that what you're saying?

**Mr Wood:** I look at the first letter back in June 1992 concerning Bill 80.

**Mr Black:** Just in response to that, we got a formal letter back from Mr Mackenzie a month later, but we have not had a face-to-face discussion on this issue with the Minister of Labour. We've had other discussions with other representatives, but not with the minister.

**Mr Wood:** Not with the minister himself?

**Mr Black:** Not with the minister himself.

**Mr Wood:** But with his parliamentary assistants and with the bureaucracy, the staff?

**Mr Black:** Indirectly, yes.

**The Acting Chair:** I want to thank Mr Begg and Mr Black for making a presentation before the committee this evening.

**Mr Mahoney:** On a point of order, Mr Chair: We would like unanimous consent for Mr Cooper to respond to a question.

**Mr Cooper:** You mean you just want to ask for a clarification?

**Mr Mahoney:** Yes.

**Mr Cooper:** On section 138.2?

**Mr Mahoney:** Page 5 of this presentation where it



says that bargaining rights under the bill will be given over to a provincial bargaining council and it thereby could be negotiating in lieu of the local or district council on a province-wide basis. The clarification is, does this then turn this into province-wide bargaining instead of bargaining from the international or shared by the international and the local? At least now they share it in most instances.

**Mr Cooper:** Section 138.2 is to address the problem where there are certain locals that just have contracts imposed on them. It won't take anything away from what's already set up. If it's working well now, it's not going to detract from that.

**Mr Mahoney:** They don't have to set up a bargaining council?

**Mr Cooper:** If they can't work out an agreement with themselves on how to do it so the locals have input in the bargaining, then there is the condition in there that something would have to be done, and it's in reference to like councils that are already in place.

**Mr Mahoney:** Not very clear, is it?

**Mr Cooper:** There is a provision to set up councils if they can't sort out how there would be input from each local.

#### SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

**The Acting Chair:** The next presenter this evening is the Sheet Metal Workers' International Association, Mr Robert Belleville, director of Canadian affairs. Please come forward, make yourself comfortable, and if you would identify yourself for the committee and for the purposes of Hansard, I would appreciate it.

**Mr Robert Belleville:** Mr Chairman, members of the committee, on behalf of the 8,266 members of the Sheet Metal Workers' International Association in Ontario working in the construction industry, I thank you for the opportunity to appear before you and express our concern regarding Bill 80. On behalf of the Sheet Metal Workers' International Association, hereafter known as "the parent," I must state for the record our total opposition to this unwarranted legislation.

On January 25, 1888, the Sheet Metal Workers' International Association had its founding convention in Toledo, Ohio. Just eight years later the oldest local union in Canada was chartered, Local 30, Toronto, followed by Local 47, Ottawa, in 1907. For the past 105 years the Sheet Metal Workers' International Association has been organizing and representing all the members of the sheet metal industry.

For 19 years, I served as an elected official of Local 47, Ottawa, Ontario. For 10 of these years, I served as the business manager/financial secretary-treasurer. In October 1987, I was appointed and chose to be an international representative for the Sheet Metal Workers' International Association, and on October 1, 1991, I was appointed director of Canadian affairs.

As the business manager of Local 47, I served on every committee of the Ontario Sheet Metal Workers' and Roofers Conference, including serving as the secretary-treasurer and as president. It is with this experience

and having worked both sides of the proverbial street that I know this legislation is not needed by our members. However, I feel it is supported by some officials who could use it for their own advantage. How is this legislation going to help the ordinary member?

Bill 80 was introduced on June 25, 1992. The Minister of Labour said that the bill provides Ontario-based locals of international construction unions with greater democracy, freedom and local control. I do not feel this statement is true. This statement is untrue for the following reasons, at least from the sheet metal perspective.

For 97 years in Ontario, the SMWIA has worked with its affiliates, allowing them the utmost autonomy, whereby no local has been put under trusteeship, no local has been merged, locals carry out negotiations and arbitrations with maximum autonomy, no local union official has been disciplined or removed from office by this international in the province of Ontario.

#### 1910

On May 26, 1992, the business manager of the Ontario Sheet Metal Workers' and Roofers Conference sent the Minister of Labour a letter supporting the proposed legislative amendments, the disaffiliation provisions known as Bill 80.

The Ontario Sheet Metal Workers' and Roofers Conference is made up of 11 ICI locals in Ontario—I won't name them because I realize I have limited time—and one residential local, Local 285 in Toronto, and Local 540, a production local. Of the above-mentioned ICI locals, Local 47, Ottawa, Local 473, London, Local 539, Sarnia, and Local 562, Kitchener, have discussed this legislation at an executive board meeting and at a regular union meeting. They have gone on record as being opposed to Bill 80. Letters are found in tab 1. Local 285, the Toronto residential local, and the production local, Local 540, also oppose Bill 80, and their letters are found in tab 2.

To the best of my knowledge, and I have just been informed, no sheet metal local in Ontario has had a mandate from its membership to support this legislation. I will amend that, because I have been told differently. I have been told that Local 30, Toronto, in fact did go to its membership. I stand corrected and I have so amended my document. One of the things I will not do is present falsehoods to this committee. Yet the sheet metal workers in Ontario are supposedly in favour of this legislation. Is this democracy? I don't think so.

At best, the conference is divided, and let the record show that there is no unanimity in Ontario, despite what their solicitor said. He said this: "Ten out of 11 ICI locals now support the remaining provisions." Because I was away in Calgary on business, I was shocked to hear this, so I got on the phone and I have spoken to these people who are opposed to Bill 80. They have told me that they have not voted to change their opinion. I say, and let the record show, that there are still those locals in opposition to Bill 80.

Last year in Kingston, at the Provincial Building and Construction Trades Council convention, the delegates overwhelmingly opposed Bill 80, and again this year at



their convention in St Catharines. The official body of all construction workers in this province is opposed to this legislation. Why is the government not listening? Is this democracy? I don't think so.

At the provincial building trades convention held in Kingston in October 1992, the Minister of Labour admitted to the delegates that there was not enough consultation regarding Bill 80. He also stated, "We will continue to consult with the construction and building trades community on Bill 80."

The resolution from the building trades convention in 1992 stated that they would go on record as opposing Bill 80. The president of the Provincial Building and Construction Trades Council would form a committee to convene this opposition to the government and mandated this committee to further consult with the government in regard to the Labour minister's comments. The Minister of Labour's only meeting with the committee was when he gave them the copy of the proposed revisions.

What happened to my letter representing my association dated June 12, 1992, requesting a meeting with the Minister of Labour on behalf of the Sheet Metal Workers' International Association that pre-dates his party in this province? I got a letter back saying, "We will have further consultation." To this date, I have not had a meeting with the Minister of Labour one on one to represent my association.

I had one meeting as a member of the executive board of the building trades, but it was a general meeting and I did not have an opportunity to have any input. All the while, the deputy deputy minister of Labour, Mr George Ward, knew everything about what was going on in this Legislative Assembly.

I asked the deputy minister then, in December 1991, was there legislation being drawn up—thank you for my time; unfortunately I'm not even halfway through this—I was told then that in fact there was nothing. I called then in January and there was nothing, until boom, as Mr Ward said, it came out of the ground like a monster. Unfortunately, I don't have the time that Mr Ward was allotted, with all the names he had backing him, and they didn't get up to speak. Nevertheless, let me talk about the serious thing here, the revisions.

I believe that in section 138.1 the word "work" must be removed from the definition of jurisdiction, otherwise we will have total chaos in the construction industry. I strongly urge you to delete subsection 138.1(3), as it gives the Ontario Labour Relations Board the power to run roughshod over a bona fide union constitution. This type of legislation is a direct attack on and interference in democratic unions. Accordingly, this legislation is in violation of resolution 87 of the ILO convention, for those of you who aren't familiar with it, to which Canada and this province are signatories.

This legislation begs the following questions: Why was this legislation only for the construction sector if it is so good and democratic? Has the Ontario Labour Relations Board the manpower and the expertise to take on this new responsibility? For those of you who have not appeared before the Ontario Labour Relations Board, I can assure you there are many times you wonder if they

can even deal with trade jurisdictions. Nevertheless, those are my own personal remarks.

Section 138.2: This section, if enacted, allows the Minister of Labour to force a residential local, Local 285, which is opposed to it, and a production local in a council or conference into provincial-wide bargaining. Is this democracy? I say it is not. I say it is diametrically opposed to democracy and it should be removed.

Four minutes left: Okay, I'm going to leave the rest of what I have here, because there is something I cannot pass by, and that is the presentation made by the Ontario sheet metal conference. Unfortunately, I don't have their time and I know I won't have the pleasure of the committee here, but I'll quickly say I would like now to review with you certain remarks made by George Ward which in many cases are erroneous and half-truths.

Mr Ward's performance was in my opinion disgraceful and not worthy of a member of the Sheet Metal Workers' International Association to which I belong as a member. I want to correct for the record certain allegations he made. First of all, I would first admit that we've had traumatic times in the Sheet Metal Workers' International Association with the problem with our general president, but let me say for the record that there is nothing hidden in the Sheet Metal Workers' International Association. Mr Ward attended our conference in Orlando, Florida. Mr Ward is never shy to get up and speak on any issue. He did, and asked questions and made remarks and so on and so forth.

The international came clean and the general executive council has addressed the issues. It also addressed this to every member of our organization: 150,000 members received this journal with full disclosures and what the general executive board has done to correct the problem. So there is no need for the type of blacking that was done by Mr Ward. Let Mr Ward take a page out of Mr Raso's book and talk about the legislation. That's where he should have been.

For the record, I have to make sure I speak on certain things. For example, he said he is hiring a lawyer to look into the business agents' pension plan. Let me tell you for the record that I can save him a lot of money. Koskie and Minsky may not like this, but all he has to do is file an application and get on the phone and phone our administrator and they will provide him with the latest actuarial evaluation and the financial statement of our plan.

Let me tell you that the BA pension plan that was brought in for our membership, our business agents across Canada, was brought in seven years later than for our American brothers, yet they offered our Canadian brothers, business agents in Canada, a total service, I know. I speak from experience. The business manager I succeeded, Ray Guertin, was in this bad plan for seven months. He got 17 years of pension and was able to live in dignity for the rest of his life.

Let me tell you for the record that our plan is in very good shape, because I've taken the time to call. There's \$8.737 million invested in the Royal Bank of Canada, which mirrors what our international does in Ontario, because all of our per capita is put in the Royal Bank of

Canada, invested in this province. We have taken the steps and have always taken the steps. We were one of the first unions to do that.

**1920**

Many of the things that have been said were half-truths and talking about an issue in Thunder Bay. I don't know where they were coming from, because here was a situation where in fact a local in Sudbury was making claim for a territory on a Detour Lake project, a mine, if I believe correctly, which is 850 miles away from Thunder Bay. After reviewing all the facts and an investigation, it was decided that, in the interests of what was reasonable, in fact it was closer to Sudbury. Sudbury was 150 miles from the site, and therefore that site was allotted and given to the Sudbury local.

What happened there is that the business manager from Thunder Bay appealed to the general executive board, which referred it to the general president. The general president further investigated and referred his decision back.

No matter what body gets into making decisions, whether it's the Ontario Labour Relations Board or the international, we're not in a papacy here; we're not infallible. Mistakes are made. But if this is the most he can come up with, I can't understand where he's coming from. Our international has always been fairminded and treated our people in an autonomous way.

They talk about this great affiliation to the Ontario Federation of Labour. I knew what was going on. I made a recommendation to our general executive board council. I could understand some of the reasons they wanted to get back into the OFL, even if it was through the back door. I understand the problems they have with the plants and the pressures that were being put on, the no-raid pact with the CLC. I can understand that. I wasn't born on a Christmas tree and I didn't fall off the turnip truck.

Let me tell you that our international was fairminded, as we've always tried to be. We've always given our membership nothing but service. We have in this province four international reps and we have three in the rest of Canada. We have a full-time office, which I am the director of. For the past two years we have done nothing but service our locals, whether it be jurisdiction—and my colleague talked about jurisdiction, because I don't have enough time. I have to talk faster than I normally speak. He keeps saying stop in one minute.

In conclusion, it's sad that such a serious bill has to have such time restraints. These are important issues. These are affecting the parent union and the local union. It's not black and white. We should have had this resolved not before the Legislature; we should have had the parties—we asked the minister to meet with them. We asked, through the building trades department, sit down and talk to us. We got nowhere. Someone said about this consultation for 17 months that that's a long time, and I agree, especially if you're talking to yourself.

**The Acting Chair:** Thank you very much, Mr Belleville, for your presentation. We have about three minutes left. That gives each caucus a minute to probably make a comment. I wouldn't want to suggest that it

allows enough time for a question and answer.

**Mr Murdoch:** Just a quick comment: If Bill 80 doesn't pass, will insubordination charges be brought up against Mr Ward for coming here and speaking?

**Mr Belleville:** Let me tell you this: To show you what democracy is—and all of you know Mr Ward and you've heard how colourful he is, and someone called him a communist bastard. That's neither here nor there. He's a very colourful person. We've had him for 10 years and he's never been accountable before our international. He almost got there once, and I was one of the guys who went on his behalf to convince the international that charges be dropped. In fairness, it was.

**Mr Murdoch:** So he won't be now because he spoke out in favour of Bill 80. There was concern.

**Mr Belleville:** I certainly am not going to prefer charges. I'm used to Mr Ward's colour. I keep offering the olive branch but he keeps biting me.

**The Acting Chair:** Sharon, do you want to make a comment?

**Ms Murdoch:** Yes. I feel somewhat hard done by here, because Mike Cooper was appointed parliamentary assistant to Labour in February of this year and prior to that I was responsible for everything, including this bill. I have had numerous conversations with any number of people on it.

I get the impression that you feel the only person you could speak to who would have given you any kind of assistance in getting any changes on this would have been the minister himself, when the reality is that, in many instances, people like Jerry Kovacs and myself and Mike Cooper also have a fair amount of influence. I just wanted on the record that there have been numerous conversations, and I somewhat take exception to what you've said.

**Mr Belleville:** With all due respect, I am the director of Canadian affairs, I have a position, and so has the Minister of Labour. I would have thought he would have the courtesy to give me a phone call or a fax—with this new mode we have of the fax—and I could have met him for lunch, breakfast or dinner. The only person who ever got his ear was the deputy deputy minister, and that was unfortunate.

**Mr Mahoney:** I spent some time in the last government as a parliamentary assistant and I never deluded myself as to who is calling the shots. It sure as hell is not the PAs and it's not the back bench. It is the corner office, and it sure as hell is the corner office now under this particular Premier.

Thank you for your presentation. It was not only colourful, but enlightening. By way of comment, one of the things I've arrived at is the frustration that this is a government interfering in a labour dispute.

Clearly, there are disputes. We've heard from people. Maybe you can dispute what Ward and others have said. He may not be charged by the union, by the way; he may be sued in a civil court for some of the stuff he said. I don't know, but that's really not my problem.

But clearly this is interference in an internal matter that



you should be encouraged to resolve. As to the people who are upset and unhappy, who feel that their rights are being taken away, I would encourage all the international unions to sit down with those people, as apparently you have done, to try to find a way to accommodate them and to make changes within the constitution so that Canadian locals are recognized for the talents they bring to the table. I've heard in a number of the presentations opposed to Bill 80 that they have done that. It appears there are some areas where that has not happened.

Bill 80 is going to pass, I can tell you that. We hope to get a couple of amendments. I don't know how that's going to work out, but at the end of the day, I and my leader and caucus would like to encourage you guys to solve your problems within your own family.

**Mr Belleville:** I agree with you, Steve. If we all used the same strength and effort that's been on both sides of Bill 80 to fight for a fair wage in this province—

**Mr Mahoney:** Right on.

**Mr Belleville:** —and other progressive legislation for labour, it'd benefit our people. We're going through a facet and it's a learning process. And yes, we do have to heal our wounds and find out who the real enemy is.

INTERNATIONAL ASSOCIATION  
OF HEAT AND FROST INSULATORS  
AND ASBESTOS WORKERS, LOCAL 95

**The Acting Chair:** Our next presenter this evening is Mr Joe de Wit, business manager for the asbestos workers, Local 95. Make yourselves comfortable and identify yourselves, and you may proceed whenever you're comfortable.

**Mr André Chartrand:** I'm André Chartrand, vice-president for the international for eastern Canada.

**Mr Joe de Wit:** My name is Joe de Wit. I'm the business manager and financial secretary of my organization, the International Association of Heat and Frost Insulators and Asbestos Workers, Local 95. We are a province-wide local, and I represent approximately 1,500 insulators from all across Ontario.

First of all, I'd like to thank the committee for giving me the opportunity to express my views on Bill 80. It is my opinion that this proposed legislation is an ill-conceived and totally unnecessary intrusion in the affairs of unions and I'm therefore unequivocally opposed to all aspects of it.

I can see no reason why government would want to interfere in the internal running of independent unions like mine which, in some cases, have been around for over 100 years and have managed to grow and prosper without government intervention; unions which have weathered recession, depressions and unfriendly political climates and still continue to grow.

1930

Our independent unions have provided our members with a good standard of living. We have, through the prudent management of our resources, attained for our members the finest health and welfare benefits available, as well as a fully funded pension, at no cost to the taxpayers of this province.

We have been instrumental in making Ontario one of

the safest places to work in the entire North American construction industry. We have consistently provided a large pool of well-qualified, union-trained tradespeople who have a standard of workmanship and productivity that is second to none. We have done this for a great many years without government intervention.

We have managed our locals well over the years. We have shown solid fiscal responsibility. We have kept well within our budgets. We do not ask the taxpayers of this province for subsidies. We do not run our finances at a deficit. We provide apprenticeships for the upcoming generations and we provide well-paying jobs for our members. We instil into our members a sense of pride in their unions and in their work.

We run our locals in a democratic fashion. All our local union officials, from the general president down to the local sergeant at arms, are duly elected. Finally, we have in place a viable mechanism for handling any problems that may arise. We do not need Bill 80.

If this bill was being supported by a majority of the union members, I would accept your decision. After all, in a democracy there are many pieces of legislation that one has to live with, the infamous GST being a prime example. However, this bill is patently unfair. It is being rammed down against the wishes and the best interests of the rank-and-file membership. We are being bullied into accepting the wishes of a self-serving few.

Our main bone of contention over this bill has been the complete disregard of our concerns. Contrary to what has been claimed, the vast majority of local unions affiliated with the building trades were not consulted or asked for their input when the concept of Bill 80 was first floated. I myself am a vice-president of the provincial building trades council, and certainly no one ever approached me. From what I can gather, it was just a select few, who by coincidence all happened to be strong proponents of the bill, who were actually asked for their opinions.

One thing that has me baffled regarding this bill is that, if it is such a good thing for unions, why are only construction unions being singled out for this honour? Surely this displays an element of discrimination against other unions here. Surely all unions deserve the protection this bill offers, or is there, as some people have suggested, a hidden agenda being adhered to with respect to this bill?

One argument put forward by the proponents of Bill 80 is that it will protect local unions from the unfair imposition of trusteeships by their respective internationals. This is a red herring, in my opinion. The same proponents have been unable to prove their assertion that international associations impose trusteeships more often than other unions.

Most of us who belong to international organizations have developed a good working relationship with our affiliates across the border. We take pride in our affiliation with our brothers and sisters across North America. We appreciate the advantages associated with being part of the large international union. In fact, one of the advantages of this affiliation has been that some of our members have only managed to ride out the depression our province has been in for the past three years by



obtaining employment with our sister locals across Canada and the US.

I know that some people have given impassioned pleas on behalf of Bill 80. I know that some people feel that they have been unfairly treated by their international over the years. However, these same people have been unable to get re-elected by their peers to the offices they were removed from, despite their best efforts.

This proves to me that there has been some justification for the international acting in the way it did in the first place. From my own experience, an international body does not just arbitrarily decide to impose a trusteeship. There's always a good reason, which is why the Ontario labour board refuses to intercede until all internal appeals have been exhausted.

A trusteeship was imposed on my own local in 1983. The then business manager took our membership out on strike in direct defiance of our constitution. This strike was unnecessary and costly to everyone. Our international stepped in and within 48 hours the strike was settled, the business manager removed from office, pending appeal, and normalcy was restored. Within nine months elections were held and our local returned to us, stronger than ever, my point being that had we not had an international to turn to, our local could very well have faced bankruptcy because of the pigheadedness of one person.

Unions are in place for the sole benefit of the membership, and in my opinion Bill 80 is a gross intrusion into the running of a private organization. I stress the word "private" because we are run in much the same way that any large corporation is run. I can just imagine the hue and cry that would ensue if the government tried to impose similar legislation on any other organization whose headquarters happened to be in another country, and quite rightly so. So why are unions, which are completely self-sufficient, obey all the laws of the land and contribute to society as a whole, being singled out for this discriminatory legislation?

Construction unions have historically held a unique position in this country. Because of the transient nature of a lot of the work they perform, they have always had to look after themselves more than workers in traditional and permanent jobs. The value of the work they perform cannot be disputed; they built this province.

In 1978, workers accepted the idea of provincial bargaining and agreed to negotiate their contracts simultaneously in order to avoid the leap-frog syndrome of work stoppages, that is, different areas striking at different times and creating havoc within the entire industry. This has worked relatively well since then, and various trade councils have been formed to oversee the voting procedures that were put in place.

Bill 80 will effectively put a stop to this harmony and will cause dissension and confusion within the locals. It will also cause further problems in dealing with the different agreements that most locals are signatory to. In short, the leap-frog effect will be back with a vengeance. Do we really need all these problems merely to placate a few power-hungry, disgruntled union representatives who feel they have been denied their version of justice from their internationals?

It is my honestly held belief that a hidden agenda or political payback scheme can be the only logical explanation for the pushing of this bill. It is the only explanation that fits all the pieces of the puzzle. Why else would a government risk alienating so many, when it is crystal clear that the great majority of union workers do not want it? When the very few people it purports to benefit are against it, what is the motive?

Why are successful unions that have proven themselves to be models of fiscal responsibility and democracy in action being penalized in this manner? Why are unions that have shown the highest integrity towards their membership being treated like second-class citizens by their government?

Might I respectfully suggest that the government take a leaf out of the book of construction union management and listen to the people they were elected to represent, instead of pandering to a vocal minority.

In closing, I would like to request that you reconsider the implications of this bill and block its passage forthwith. Thank you for your time.

**The Acting Chair:** Thank you, Mr de Wit. We have approximately four minutes per caucus.

**Mr Chartrand:** Can I make just a comment?

**The Acting Chair:** You certainly may, Mr Chartrand.

**Mr Chartrand:** Joe de Wit talked about the trusteeship imposed on Local 95 in 1983. I was the supervisor of that trusteeship. This is the thing that I'm most proud of, because I feel that when you put a trusteeship over a local it's because there's something wrong there.

The international union goes into those locals to protect the membership, and that's what we did. It's been proven. Joe de Wit's been there; he worked for me under supervision. He's been elected, re-elected. He's there. He's got a strong local now. He's our biggest local of the international in North America, and Joe's doing a hell of a job. He worked for the trusteeship there, so I think we did our job.

We had another local under supervision in Canada, in Montreal, for two years and I was a supervisor there too. The people working with me under supervision are still there today, elected and re-elected. So I think the international union, which uses leadership to protect the membership against some business manager or agent who is using his office to play around with whatever he can play around with, is there to protect the membership, and that's what we did in our case of the insulators.

I think this bill should be withdrawn because I'm sure it's going to be misused by some people. What we will see in the future is that those kinds of people will spend most of their time challenging their international union. I don't think we deserve that.

**1940**

**Mr Wood:** Just a brief comment: Thank you for your presentation, first of all. Having been a member of the international union over the years, I guess this discussion has been going on for probably 30 years with the industrial unions.

I worked in a paper mill and I can remember back in

1965 where five of my buddies were thrown in jail at the border and only released after the convention was pretty well over because they were challenging some aspects of that. I've got a history of it and personal knowledge of what went on over those times.

I never was a member of the construction trade unions, but I know the industrial ones, after they lost a quarter of a million or 300,000 Canadian members, basically changed some of their rules and regulations under the industrial unions and it doesn't happen as much, the abuse that we used to hear about in the 1960s and early 1970s.

But there were a lot of people who brought forward requests and a lot of people have come forward in this committee saying, "We're fearful of what will happen if Bill 80 is passed, not in its original form, with some of the amendments that have been brought. We're fearful that we might never work again because we're coming forward in front of the committee," and things of this kind. I'm just wondering what reaction you would have to those comments. There were a lot of presentations that were brought forward concerned about those things.

**Mr de Wit:** You're asking me what would happen to those people? If anything was done against those individuals, they can go to the labour board. First of all, I've heard some of the comments that people will never work again in the industry. Under the Labour Relations Act, you can take your business manager or the local union to the labour board if that's the case, if you can prove that he's keeping you out of work.

We have a list system, a hiring hall system. It's a 50-50 name hire and it's adhered to at all times. I don't even interfere in the running of the hiring hall. I've got a dispatcher and he looks after that and that's his job.

**Mr Wood:** I don't want to go through all the comments that different presenters have made, but they have made presentations saying that a convention is held every four or five years and that it could take that long before they get to the appeal and get to the convention floor before a decision is made as to what their future is. In the meantime, during that period of time, what happens to them?

All three parties here have listened to those presentations, and quite a large number of them have come forward saying, "Look, you have to proceed with Bill 80 in some amended form," because of the fear of what's going to happen to a large number of international construction workers out there in different trades.

**Mr de Wit:** I think it's fearmongering. That's what they're trying to tell you.

**Mr Wood:** Thank you. Those are the only comments I have.

**Mr Mahoney:** I want to go on record and tell you that if Bill 80 was withdrawn and those kinds of intimidation tactics came forward, I would be the first one to stand up and fight them publicly, right alongside of you and your colleagues. I said before that I think it's important that once all the rhetoric has died down, the partisanship has died down and the battles have died down, I sincerely hope that everybody in the construction unions

will work together and try to improve the economy and the life for their members, and I'm convinced they will.

I also want to tell you that I'm well aware of the length this has been a history of the international versus the national and the local controls. Majesky accused me of bringing my old man up too much, but I'm going to do it one more time, because I remember his paycheque came from Pittsburgh in US funds. I'll tell you, the argument in those days was hot and heavy at the Steel conventions about whether or not they should have autonomy and, in reality, they did.

I would defy anybody in Pittsburgh or anywhere else to tell me that some of the men like Larry Sefton and Bill Mahoney and others didn't run the bloody show in this country. Let me tell you, they did, and they didn't need some international telling them what to do and there was no, pardon me, BS about that.

Their main concern, though, was for the success of the steel plants and the workers and the members in those plants. That's what they were concerned about, more than what bloody flag you pin on your lapel. This wrapping yourself in the Canadian flag is just a smokescreen for somebody who's trying to seek power and some kind of influence in the union they think they need.

I don't know if you know the answer to this. You probably don't, but I'm going to ask it so it's on the record. Trusteeship, supervisions, geographical adjustment, sectoral disputes, work disputes, removal from office: I wonder how many of those have occurred in international industrial unions. Does anybody have any idea? Does it happen?

**Mr de Wit:** Yes.

**Mr Mahoney:** If it happens, why in hell wouldn't they bring this in to protect those locals, which I can tell you are pretty autonomous in Timmins and in Sault Ste Marie when they get together for beer and spaghetti on Saturday morning. They're pretty strong in favour of their local and the rights of their workers. Why is it that you wouldn't want to protect those people from the big, bad internationals, which are doing exactly what you're accusing these men and women of doing in the labour movement?

Two other things: First, you raise the point that you haven't asked the government for money, that you're operating as a private organization. I'd like to know the cost of Bill 80, not only in things like paperwork but the person-hours that have gone into bringing this bill forward, the meetings, the staff time it has taken, the committee time, the legislative time. The construction unions who want to somehow fly the coop and become independent in Canada have just cost the taxpayers one ton of money. I don't blame them; I blame the government. They're absolutely wasting money in coming forward with this nonsense.

**Mr Cooper:** So let's cancel all committees?

**Mr de Wit:** I've been the business representative for the past 10 years of my local, and I can tell you that I never hear from our international. The only time I hear from them is when I call them and ask them for some input. Otherwise, he gives me a phone call once in a



while: "How's it going?" That's it. We run our own show here all the way. We don't have any intervention whatsoever from the international. We help them out whenever we can, they help us out whenever they can, and we have a good working relationship. I can tell you that I'm a province-wide local. We look after the whole province here, and the only time André comes in is if he has meetings here; I meet him at the airport. Other than that, there's no interference whatsoever.

**The Acting Chair:** Mr Murdoch.

**Mr Murdoch:** You go ahead. You can use my time.

**Mr Chartrand:** Most of the people are saying that the show is run by Washington and we don't have a word to say. I'd like to raise an important point here. Myself and brother Tony Ceraldi sitting there—he's VP for western Canada—were elected at a convention although we were not on the slate. We were supported by Canadians. Canadians worked so hard to have us elected, and we beat the machine there. Tony and I are running the show here under certain directives of our general president. So it's not true that the international union in Washington is doing everything. We've been elected by Canadians here because we beat the machine there. I'm proud of that and I think Tony's proud of that and all Canadians who are part of our organization are proud of that.

**The Acting Chair:** Mr de Wit and Mr Chartrand, thank you very much.

**Mr Murdoch:** One question?

**The Acting Chair:** There's one minute, Mr Murdoch.

**Mr Murdoch:** Did your local vote on Bill 80?

**Mr de Wit:** Yes, they did, twice.

**Mr Murdoch:** You didn't mention that. And they turned it down with a margin, or was it close?

**Mr de Wit:** By a great majority.

**Mr Murdoch:** I just wanted to know that.

**Mr de Wit:** A lot of my members live in your area, by the way.

**Mr Murdoch:** Then maybe they should get hold of me.

**Mr Mahoney:** Billy, don't worry. The other side threatened me, so you're all right. Those guys are going to be so busy in politics.

1950

#### PROVINCIAL BUILDING AND CONSTRUCTION TRADES COUNCIL OF ONTARIO

**The Acting Chair:** The next presentation is from Mr Joseph Duffy, business manager and secretary-treasurer, the Provincial Building and Construction Trades Council of Ontario. Please come forward and make yourself comfortable, sir, and whenever you are prepared, begin your presentation.

**Mr Patrick Dillon:** I'm Pat Dillon, president of the Provincial Building and Construction Trades Council of Ontario. This is Joe Duffy, the business manager.

The first comment I would make in starting is that we haven't listed in the brief, clause by clause, what the clause says, what we think it should say and so on. We're

in pretty close agreement with the presentation that was made by the national building trades, I believe the first day of hearings. So I'll get to the brief.

The Provincial Building and Construction Trades Council of Ontario is the umbrella group which represents over 100,000 unionized construction workers in this province. This number is broken down into 12 local building trades councils, 11 craft councils and over 125 affiliated local unions. We are expressing their views as we are obligated to under our charter, our constitution and by resolution at convention, and I would like you to pay particular attention to "constitution" and "resolution at convention."

In light of the fact that these hearings are being held in Toronto and many of our locals cannot be here to represent themselves, we are speaking on their behalf as their elected representatives. I think without much explanation there, the economy of this province would dictate why a lot of the local unions aren't here themselves.

We must begin by clearly stating that the official position of the Provincial Building and Construction Trades Council of Ontario, as stated at the 35th and 36th annual conventions of our organization, is that we are opposed to Bill 80 in any form. We would like to take the opportunity to briefly explain our reasons for this position and to discuss some issues related to the processes which were associated with the bill.

The primary concern revolves around the issue of the sanctity of the constitution, not only for the construction industry but for any organization. A constitution is the *raison d'être*; it defines the purpose of your organization and how it should go about pursuing its stated goals. It is like a flag which symbolizes respect and pride for a craft or trade. A constitution provides structure, stability and a frame of reference.

I would like to ask each committee member to reflect upon their own political organization and the importance of their constitution, both provincially and at the constituency level. None of you would like to see government intervention in your affairs; those of us in the construction industry would like to be afforded the same courtesy and respect. We find it particularly offensive that we are singled out in this bill and that other sectors were not considered.

Issues like stability and structure are crucial in an industry such as construction. It is even more crucial in difficult times such as we face now. Ontario is in the midst of its most serious downturn in a great many years. Competition for private sector capital spending is ruthlessly fierce. We feel that Bill 80, as written, will lead to increased instability of the industry and ultimately make Ontario a less attractive place to do business.

I'd just like to comment there that these comments are certainly no effort on behalf of the provincial building trades to suggest to the government that it should interfere in the other constitutions.

We would like to focus attention on the role of the Ontario Labour Relations Board as defined by the bill. The traditional role of the OLRB is a complaints-driven



mechanism. Bill 80, as written, changes that role to something different.

Presently, the OLRB has a difficult time keeping pace with the demands placed upon it. Our concern is that in the event of a situation where a trusteeship, for example, is to be invoked, any delay in invoking trusteeship may result in a serious risk to the local union. Should the board not be able to address the international's request for trusteeship in a timely manner, one could see the potential for continued risk. Thus, the international must be able to make the necessary decision in an immediate manner or however it must act as provided under the provisions of its constitution.

In terms of process, we were completely unaware that this legislation was contemplated by government. It should have been raised in conjunction with the Bill 40 debate if it was the government's intention to introduce legislation of this nature. This would have provided an opportunity for all affected parties to make comments as the Bill 40 hearings travelled across the province.

At the very least, this council should have been consulted as to the need for Bill 80 before it was released to the public. This could have resulted in addressing the intent of the legislation in some other manner and could have avoided the unnecessary divisiveness that has resulted in the discussions surrounding the bill. That was evidenced at these hearings this evening and I believe at other times. I haven't spent a lot of time here listening to it.

In conclusion, we would like to reiterate our opposition to Bill 80. We are, however, realists in that we can see that proclamation of the bill is imminent. We think it is in the best interests of all involved that the following should be considered as this committee prepares for clause-by-clause consideration:

(1) That the involvement of the Ontario Labour Relations Board should be on a complaints-driven basis. For example, if an international decides that a trusteeship is to be invoked, then it should be allowed to do so. The person or people affected by the trusteeship would then be allowed to appeal to the board in a timely manner.

(2) That the Ontario Labour Relations Board must consider the prevailing constitution and the effects on collective bargaining and labour relations when deciding on alterations to jurisdiction. The international should be allowed to change jurisdiction as provided in the prevailing constitution, pending some type of specified notification. Again, any action by the board should be on a complaints-driven basis.

(3) We agree that the successorship clause should be dropped, as the minister and the deputy minister stated in their remarks to the committee.

We would like to thank the committee for listening to our concerns. That's the formal presentation. I'll turn to Brother Duffy for a couple of comments, and I have a couple I'd like to make myself.

**Mr Joseph Duffy:** As to consultation, I've had the privilege of working with many ministers of Labour over the past 13 years that I've been employed by the Provincial Building and Construction Trades Council, and I've

had a personal working relationship with Bob Mackenzie for many years.

During the rumour time, before Bill 80 became public, I had the opportunity to question him in private meetings: Was there legislation coming down to affect the construction industry? I was made aware by Brother Mackenzie that there was not. I was also made aware by his deputy at the time, George Thomson, whom I had meetings with, and was told no, there wasn't.

I also had meetings with Vic Pathé, who was the chair of the construction industry advisory board, of which I am a member, and so is one of the people who supports Bill 80, George Ward. We asked questions at those meetings. That committee was established to be an advisory board to the Minister of Labour on construction matters, and we were never informed of any proposed legislation.

In terms of my own opinions with regard to the Labour Relations Act, the provincial building trades fully supported Bill 40 as a good thing to change the Labour Relations Act for the benefit of workers in the province of Ontario. Then I wondered why Bill 80 came along shortly afterwards. Why was it not a part of Bill 40?

I can tell you why. Because the industrial trades, if it was going to affect them, would never have supported the bill. It would never have got any farther than the first item on the agenda and would've been dropped.

The provincial building trades are told that we had plenty of opportunity for consultation. I'd just like to state here that we had very little consultation. We even met with the minister, the provincial building trades executive at the time, including some of the people who support it who sit on our committee, and were told by the Minister of Labour, walking out of the meeting, "From now on, any changes in this legislation"—and we were also told why we didn't get input into it, why it was kept a secret. It was because they thought action would be taken against those people.

I can only tell you I don't think action would be taken. I'm not in a position to take any action. I don't think I'd want that opportunity to take any action. I think in a free and democratic system, those people have the opportunity and should have the right to complain about actions taken by their international.

But when you want to have a democratic system, it should affect everybody, not just some individuals. We all should have had the opportunity for input. I believe Bill 80 still might have come along with the support of the provincial building trades, but it wouldn't have come along in the same views. There would have been different recommendations, because as the Canadian building trades have stated, there are some the points we can support. Thank you very much.

**2000**

**Mr Dillon:** To make a couple of personal comments myself, as president of the building trades, as Joe's just pointing out here, the fact that we didn't have the opportunity for input exposed our unions—the local unions, the bargaining councils, the internationals, the individual members—to a very poor position. The only way any-

body can justify their position, no matter what side of this issue you're on, is to come in here and do a bunch of dirty laundry, and that's just what we need.

I employ six organizers in one of my other lives, away from being president of the building trades, and we're out there trying to organize unorganized workers and some who are organized but not in the international building trades. This kind of tripe that's been passed back and forth here doesn't enhance the trade union movement one inch; it takes it backwards. I ask you as members to consider that.

Secondly, the issue of—I'm losing my train of thought here for a second. The issue of the constitution: I ask any member on this panel who is sitting here and those who aren't sitting here who I hope read the remarks, because I notice people in and out of the room quite often, where do we get off asking anyone to bring their constitution to the labour board to have the labour board interpret the constitution for them before they can handle an issue, whether it's jurisdiction, trusteeship or whatever, when that labour board has three people on it, if we're lucky, and I'll address the second part of that.

Right now, for these purposes, there are three people on it: There would be one labour representative who we hope would be from construction, the second would be an independent chair who probably has no construction experience, and we're going to ask some management guy to interpret our constitution, what the union should or shouldn't do. I find that appalling, that anybody in this room can stand up and vote in favour of that type of mechanism. I ask you to think about that.

The second thing I meant to say about the chairman: Right now, because of the economy in Ontario, and we understand it and we don't blame this government for it, the labour board is hiring chairs but it's not hiring sides people. The message is coming clear to me, and I don't know, maybe it isn't to you, that we're going to have a lot of hearings where it's just the independent chair. So now somebody's going to be in there with their constitution, asking some independent person who is not union or management, supposedly, "Would you tell me what my constitution means so I can decide what I should do for my membership?" I say to you, think about that before you make that decision. I'll cut off my remarks there; I could carry on.

**The Acting Chair:** We have two minutes per caucus for a statement or a short question.

**Mr Mahoney:** I want to say first of all that Joe Duffy chaired the meeting in St Catharines of the AGM of the Provincial Building and Construction Trades Council. Bob Mackenzie was introduced by him, and in spite of the fact that you have such strong differences, I think you're to be congratulated, Joe, on the professionalism that you showed in introducing it and putting the issue on the table. I think that's the kind of professionalism we're going to need more of in the construction trades when we try to resolve these problems.

Let me ask you directly, Joe, do you feel that you were deceived when you asked all of these people you've outlined about anything coming forward? Do you think you were lied to?

**Mr Duffy:** Yes, I was. I don't think, I know I was, because Bill 80 shows me I was lied to, because the rumour mill was in the building my office is in, which is the Ontario Federation of Labour.

**Mr Mahoney:** I don't think there's much question—and I'm not saying this even for a response because I respect your views—of your political affiliation over the years, and that's really most unfortunate.

**Mr Duffy:** What, my affiliation?

**Mr Mahoney:** Your affiliations are unfortunate; we'd like to make you a Liberal. It's unfortunate you were lied to.

The issue of the people: It's been interesting how many more people have come forward in this committee, since it got into committee, in support of the bill. There were some prior, mostly legal counsel here or there, who came out reasonably quietly in support of the bill. Since it's got into committee, though, we've had a number of presenters who have come in here in support and stated so, some as demonstratively as George Ward and others in a little quieter way, but they still stated it.

I wonder if I might be right, and if you agree, that there was a guarantee given by the government that this bill was going to pass and: "Don't worry about it. Come on out and lay all your stuff on the table and we'll protect you." Do you think they made that kind of deal with these people?

**Mr Dillon:** I'd like to respond to that. I can't really say that commitment was made, but let me say this—

**Mr Mahoney:** What do you think?

**Mr Dillon:** I'm thinking out loud. For anyone to come in front of this committee and give the impression to you that we have some kind of protection because of Bill 80—because who knows what it's going to look like in the end—is misleading you. There is no one who is intimidated. I've listened to people make statements here that they're worried, that people are afraid to speak up because the business manager runs the hiring hall and they're afraid to say what they've got to say because he won't give them a job. The people who were making those statements were people who had been business managers and had been defeated by those members who were afraid of them. Those things do not make sense.

The construction industry has 100 years of history in this province. Let me say this: In this jurisdiction of Ontario, we are number one to any jurisdiction in North America, whether you look at wage packages, benefit packages or labour law. Bill 80's going to help us become number what? I have a real problem with that.

**Mr Murdoch:** I want to thank you for your presentation. You made a good job of it. If I had been called a liar I'd want some time to reply to that, and since that's what you've basically said about the government, I'll give my time up to let them tell us why they're not liars.

**Mr Duffy:** I'd like to answer that. I never said that they're liars. I said I was lied to. I don't say that the government—

**Mr Murdoch:** Well, by the minister.

**Mr Duffy:** I spoke to people and they lied to me.

**Mr Murdoch:** They represent the government.

**Mr Duffy:** It is my government. I am in no rush to leave the party and tear up my card. I supported the party for years, I still do, and I will work to make changes that I think rightfully belong inside our party.

**Mr Murdoch:** But I would still like to hear what they have to say about that, so I'll let them have my time.

**The Acting Chair:** I think Mr Cooper did want to make a statement, or maybe ask a question.

**Mr Cooper:** Obviously, I don't have the answer to that. I don't know what happened between the personalities in this whole thing.

First of all, I want to start off by thanking you for bringing us your fair approach to this whole subject. There wasn't any screaming about chaos in the industry and all that.

One of the things I would like to raise, though, is that the Toronto building trades council has come out in support of Bill 80. When they did their votes, they did it section by section and they deleted the section on disaffiliation. When you had your votes in 1992 and 1993, you voted on the original Bill 80. The question is, why wouldn't you go through section by section when the minister had given his assurance that disaffiliation—

**Mr Duffy:** Because there were resolutions at our convention. The resolutions were demanding us to oppose Bill 80. There was a vote taken on the floor. Nobody requested, to the best of my recollection, going through. There was a discussion in regard to the items. The four items that the Toronto building trades agreed to were done three months after the provincial building trades convention. I was at that meeting. I was invited as a guest to that meeting.

**Mr Dillon:** I'd like to respond to your question, Mike. I chaired the meeting of both conventions of the provincial building trades, and proudly so. The first thing we vote on at the convention, as I'm sure you do at your convention and everybody does at their conventions, is the rules of order of how we're going to operate the convention. Rule 12, and I can remember it quite clearly, states how the votes will be taken at the convention.

I'm not out on the floor. As a matter of fact, it was Brother de Wit, I think, who was the chairman of that committee. He brought the recommendations forward, which we've done for 36 years of the provincial building trades, and we've used the same rules to vote on. If that's not democracy, I don't know what is.

If people have a problem, if they can come in here and call people names and do all kinds of funny things, do you think they would be intimidated to get up in front of a guy like me and say, "Look, I think we should change rule 12 so that we have secret ballot votes on particular issues"? I have no problem with that. The convention voted on the rules that I was to be guided by in running the convention.

**Mr Mahoney:** The government will change those for you.

**Mr Dillon:** I'll tell you truthfully, I think that if there had been a secret ballot vote, some of those proponents of Bill 80 would have voted against it. That's the kind of sales job I've done with them.

**Mr Cooper:** What I'd like to do is thank you for giving us some alternatives at the end of your presentation that we could look at. Hopefully your council could support it with these alternatives in it. Not just to you, but to all the presenters, everything that has been presented will be taken into consideration in our deliberations in clause-by-clause.

**Mr Mahoney:** Mr Chairman, on a point of order or information, whatever you want to call it: The Provincial Building and Construction Trades Council of Ontario has been opposed, and publicly so, to the original Bill 80 and to any amendments, with or without disaffiliation. That's been very clear.

**Mr Cooper:** But they did offer alternatives.

**Mr Mahoney:** They have no choice.

**The Acting Chair:** Mr Duffy and Mr Dillon, I want to thank you very much for making your presentation before the committee this evening. This committee stands adjourned until 3:30 pm Monday next.

The committee adjourned at 2012.







*Continued from overleaf*

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chairs / Président suppléants:**

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND)

Klopp, Paul (Huron ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

**\*Fawcett, Joan M. (Northumberland L)**

Jordan, Leo (Lanark-Renfrew PC)

**\*Murdock, Sharon (Sudbury ND)**

Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

**\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)**

**\*Wood, Len (Cochrane North/-Nord ND)**

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Hansen, Ron (Lincoln ND) for Mr Klopp

Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND)  
for Mr Huget

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer

Wiseman, Jim (Durham West/-Ouest ND) for Mr Waters

**Also taking part / Autres participants et participantes:**

Cooper, Mike, parliamentary assistant to the Minister of Labour

Murdoch, Bill (Grey-Owen Sound PC)

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service



## CONTENTS

Wednesday 1 December 1993

<b>Labour Relations Amendment Act, 1993, Bill 80, <i>Mr Mackenzie</i> / <b>Loi de 1993 modifiant la Loi sur les relations de travail, projet de loi 80, <i>M. Mackenzie</i></b></b>	R-617
Labourers' International Union of North America, Locals 1059, 247 and 1089	R-617
James MacKinnon, business manager, Local 1059	
Robert Leone, business manager, Local 1089	
United Food and Commercial Workers International Union	R-622
Clifford Evans, director, international operations	
Toronto-Central Ontario Building and Construction Trades Council	R-626
John Cartwright, business manager	
Labourers' International Union of North America	R-629
Joseph S. Mancinelli, manager, central Canada	
Labourers' International Union of North America, Local 837	R-632
Manuel Bastos, assistant business manager	
Ontario Allied Construction Trades Council	R-634
John Marchildon, business manager and secretary-treasurer	
Ontario Provincial Council of the United Brotherhood of Carpenters and Joiners of America	R-637
Quintin Begg, president	
Bryon Black, secretary-treasurer	
Sheet Metal Workers' International Association	R-641
Robert Belleville, director, Canadian affairs	
International Association of Heat and Frost Insulators and Asbestos Workers, Local 95	R-644
André Chartrand, vice-president, eastern Canada	
Joe de Wit, business manager and financial secretary	
Provincial Building and Construction Trades Council of Ontario	R-647
Patrick Dillon, president	
Joseph Duffy, business manager	

*Continued overleaf*



R-28

R-28

ISSN 1180-4378

**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Monday 6 December 1993**

**Journal  
des débats  
(Hansard)**

**Lundi 6 décembre 1993**

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

**Labour Relations Amendment Act, 1993**

**Loi de 1993 modifiant la Loi  
sur les relations de travail**



Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



Monday 6 December 1993

The committee met at 1542 in committee room 1.

LABOUR RELATIONS AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT LA LOI  
SUR LES RELATIONS DE TRAVAIL

Consideration of Bill 80, An Act to amend the Labour Relations Act / Projet de loi 80, Loi modifiant la Loi sur les relations de travail.

**The Vice-Chair (Mr Mike Cooper):** I'd like to call this meeting of the committee to order. Before we start, as I am the parliamentary assistant on this piece of legislation, I think it would only be fair that we elect an Acting Chair for today, as Mr Huget has had an operation and won't be able to attend. Nominations?

**Mr Gary Wilson (Kingston and The Islands):** I'd like to nominate Dan Waters.

**Mr Steven W. Mahoney (Mississauga West):** Does it come with any extra emolument?

**The Vice-Chair:** None.

**Mrs Elizabeth Witmer (Waterloo North):** Dan sounds good to me.

**Ms Sharon Murdock (Sudbury):** Yes, he sounds good to me too.

**The Vice-Chair:** Mr Waters, if you'll take the chair.

**Mr Mahoney:** There must be a little opposition on this.

**Mr Randy R. Hope (Chatham-Kent):** Yes, we've got to have a recorded vote on this.

**The Acting Chair (Mr Daniel Waters):** I suggested that we nominate you, Steve, but they sort of thought that—

**Mr Mahoney:** You should have done that, and then I could have given an hour's speech about how you're trying to muzzle me.

**The Acting Chair:** Yes, I know. That was the feeling we had when I suggested it.

Just before we start today, I'd like a comment from the legislative researcher. He has passed out Summary of Recommendations: Bill 80 and maybe he has a couple of comments for us.

**Mr Jerry Richmond:** All I want to do is just introduce the summary. I'm sure you've seen these things for many other committees. What I've done is collected all the recommendations and viewpoints of the various deputants in written and oral testimony to us and related it, as you can see, to the most appropriate section of the bill.

At the beginning, if you look on page iii, there's an introduction there which very briefly describes the summary. At the beginning, though, on page 1, you've got there general viewpoints both for and against the bill. Then, carrying on, you've got the various positions on the various sections of the bill and at the back, starting on page 20, you've got various other matters collected that

were expressed by witnesses that don't really relate to any section of the bill but none the less were brought forward. Finally, at the back, you have an abbreviated listing of the various deputations, primarily trade unions, that appeared before us.

If there should be any questions, I'm more than willing to attempt to answer them, but otherwise I suspect it should be relatively straightforward. If you wanted to get a quick sense of who said what, hopefully that's the document for you. If there are any questions—

**Mrs Witmer:** I don't have any questions, and I certainly don't want to trivialize the work that's been done in the preparation of this document and I appreciate it. I guess my only comment would be that this unfortunately is too late to assist us as legislators. I certainly plan to use the document, but unfortunately, not having been given the document ahead of time, I can't use it to the best of my ability and I do find that regrettable, that this was not prepared for us. That's certainly not your problem; it's the problem of the government. In their haste to pass this bill now, unfortunately the debate is not going to be of the nature and the depth of the debate that's necessary on this piece of legislation.

**Mr Mahoney:** Just to make a comment about that, I guess the only alternative to doing it this way would be to have this kind of summary done at the end of each sitting of the committee, because the staff couldn't possibly present this until after it had happened, hopefully. I think you've done a good job of highlighting points for the purposes of any of the amendments, at least, and I think that's all it's really intended for. I don't know if the committee wants to entertain having staff do a compilation of presentations at the end of each day, because that's really the only way you could do that.

**Mr Richmond:** You would know, Mr Mahoney, I did prepare an earlier one last week. It's just a question of logistics. Even to prepare this we had quite a tight time frame.

**Mr Mahoney:** Well, thanks for doing it. I think you did a good job.

**The Acting Chair:** Thank you to legislative research for their work again. They always keep us—

**Mr Mahoney:** A little extra something, then pay it back. What do you think?

**Mr Hope:** You can get a Rae day off. Go ahead.

**The Acting Chair:** Anyway, thank you again.

I guess the next order of business is, do you want to make opening statements, each of the three parties, or do you wish to go directly into the bill and start going through the clause-by-clause? I'm in your hands.

**Mrs Witmer:** Given that we only have one hour and 10 minutes to deal with the legislation here before we move into passing each section, I would prefer not to make an opening statement, other than to indicate to you

that we do not have any amendments because our party feels very strongly that this legislation should have been withdrawn and we cannot support the bill as it is.

I guess the other thing I would simply indicate to you is that in the past, when we have brought forward hundreds of amendments, in the case of employment equity and Bill 40, none of them were ever accepted by the government. So it's absolutely futile. We know the only amendments that are going to be supported today are those that have been put forward by the government.

The only amendments we would have introduced were amendments to totally withdraw sections of the bill, and those would have been ruled totally out of order.

**Mr Mahoney:** Perhaps for the record I should just say that we have put forward some amendments after consulting with people in the trade labour movement in the construction sector, not because we support the bill or the principle of the bill by any stretch of the imagination, but because we've somehow got to try to make a silk purse out of a sow's ear and to give the people in the construction trade labour movement an opportunity to put something in place that's more liveable and more workable.

The amendment which we'll be getting to with regard to complaint-driven: I get, I do know, a suspicion that even though I've asked the minister publicly in the Legislature if he would support that and didn't receive a positive answer, I have some indication from some government members that there may be support. I don't know. That, time will tell.

But I would hope that Ms Witmer's comment, that only the government amendments will carry, will not be the case. I would hope that at the end of the process, the amendments that I'm putting forward as Labour critic for the Liberal caucus, after consulting with these people, will have a chance of seeing the light of day.

Having said that, I can tell you that we're still opposed to the bill and are only agreeing to the amendments because the people affected need someone to put them forward on their behalf when the government refuses to do that. So they'll be put, and hopefully carried, and we'll still be opposed to the bill even with the amendments that are put in place.

1550

*Interjections.*

**The Acting Chair:** If we might get on with it, we'll move then directly into clause-by-clause. The first one is a government amendment, section 1.

**Mr Mike Cooper (Kitchener-Wilmot):** I move that section 1 of the bill be struck out and the following substituted:

"1. Section 120 of the Labour Relations Act is amended by striking out 'sections 121 to 138' in the second line and in the fourth line and substituting in each case 'sections 121 to 138.7.'"

**The Acting Chair:** Mr Cooper, I have to inform you that this amendment attempts to amend a section of the act which is not included in the original bill, and such amendment is out of order.

**Mr Cooper:** I'd move that we get unanimous consent to support this amendment.

**The Acting Chair:** Is there unanimous consent?

**Mr Mahoney:** Not without some explanation. Are you telling me the government has come forward with an amendment to a government bill that's out of order?

**Mrs Witmer:** This is a rush.

**Mr Mahoney:** Somebody better explain this one to me.

**The Acting Chair:** Mr Cooper?

**Mr Cooper:** We have some technical people here.

**The Acting Chair:** If the people from the Ministry of Labour are going to be commenting, could you introduce yourselves for the purposes of Hansard and the members around the table, please.

**Mr Jerry Kovacs:** My name's Jerry Kovacs. I'm with the legal services branch of the Ministry of Labour.

There is an error in section 1 of the bill. It was an error to refer to section 119 of the Labour Relations Act and it was the intent throughout to refer in that section to 120.

Let me explain why. Section 119 is the first provision of the construction part of the Labour Relations Act, which goes from 119 to 155. Section 119 states that the definitions in that section apply to the entire construction part. If you look down in the Labour Relations Act to the next section, section 120, it says,

"Where there is conflict between any provision in sections 121 to 138"—those are the construction industry provisions—"and any provision in sections 5 to 58 and 63 to 118,"—those are the general provisions of the LRA—"the provisions in sections 121 to 138 prevail."

The purpose of section 120 of the Labour Relations Act is to ensure that construction industry parts of the LRA prevail over general LRA provisions. So section 1 of Bill 80 was meant to amend the references to 121 to 138 that are in section 120 to make them read 121 to 138.7.

It was a simple error on my part to instruct legislative counsel to draft section 1 of Bill 80 to refer to section 119. It should have been a reference to section 120. So there's no change in intent, and the motion would be for the purpose of correcting that unintentional numbering error.

**Mr Mahoney:** Just to help me understand it, what would be the impact if this amendment were not carried?

**Mr Kovacs:** The impact would be that if a provision in the general section of the Labour Relations Act conflicted with one in the construction industry provisions, then it would prevail over the construction industry—

**Mr Mahoney:** Sorry, give me that again. If an amendment what? Say again.

**Mr Kovacs:** Sorry. If a provision in the general section of the LRA conflicted in any way with a provision in the construction part, then the general provisions would prevail over the construction part.

**Mr Mahoney:** The construction part of—

**Mr Kovacs:** The Labour Relations Act.

**Mr Mahoney:** The LRA, not of Bill 80.

**Mr Kovacs:** Bill 80 of course adds new provisions to the construction part. Section 120 provides that all construction parts prevail over all general parts, and the purpose of section 1 of Bill 80 was to add reference to the new Bill 80-added provisions to the construction part of the LRA.

**Mr Mahoney:** The bottom line of this is that if there is a conflict between the two acts or this in the OLRA general provisions, the general provisions would prevail?

**Mr Kovacs:** That's correct.

**Mr Mahoney:** In other words, you wouldn't be able to implement sections of Bill 80 outside of the general provisions of the OLRA.

**Mr Kovacs:** I'm not sure whether that's true. That's arguable.

**Mr Mahoney:** Being arguable, there will not be unanimous consent, Mr Chair.

**The Acting Chair:** The amendment is out of order. Now what we have to do is vote on section 1 as it stands. Any further discussion?

**Mr Cooper:** As we can't get unanimous consent on that, obviously the government won't be able to support section 1 now.

**The Acting Chair:** Any other discussion? Seeing none, shall section 1 carry? Section 1 is defeated.

Section 2 is a Liberal amendment, I believe.

**Mr Mahoney:** Is that on jurisdiction?

**The Acting Chair:** Yes.

**Mr Mahoney:** I have a couple of questions. I'm not sure; should I be directing my questions to the technical staff?

**The Acting Chair:** I would suggest that you direct them to Mr Cooper, and if he feels the need, he will redirect to the appropriate person.

**Mr Mahoney:** The issue here, as I understand it, is whether or not work should be included in the jurisdictional disputes. You could have one over geography where a couple of ridings were arguing over boundary lines or things of that nature—not ridings. What did I say? Ridings? A couple of unions, locals, arguing over their geographic boundaries.

The sectoral jurisdiction, it seems to me, covers the issue of type of work, because in essence you're talking about the sector to which the dispute refers, and there's a broad base, I recognize, within each sector. In residential there might be a broad base of types of work.

But the current document that's set up that is used to settle disputes between perhaps the pipefitters and the plumbers or, you know, trying to think of the jurisdictions where there may be some overlap in the type of work that's done, it seems to me it is already covered under that particular section, that particular operation.

Are we now going to have to refer every dispute over work to the OLRB for a decision if we leave the word "work" in there, and if in fact we have to do that, have we analysed the time it will take? I know there is an

amendment here to deal with the OLRB's settling disputes within 15 days, but have we analysed the time it would take for the OLRB, the staffing component it would take, the availability of a hearing officer or officers it would take, the cost to all that, whether or not a visit would have to be made to the actual site to determine the dispute, which often has happened, I'm led to believe, by the international in settling disputes in the past, the knowledge of the individual making the decision? Do we have to find specially trained hearing officers available to go and settle these disputes?

Mr Cooper, as the parliamentary assistant, has the ministry thought out how this dispute system is going to work? Would you not be better off leaving the settlement of disputes over work to the current system and deleting it from this bill?

1600

**Mr Cooper:** I think you'll find in most cases that most of these internal problems are dealt with properly between the local and the international and a lot of them wouldn't be complained about, but it's necessary to keep it in there because if you look at places like electric power systems, certain work jurisdictions are assigned strictly to Hydro in there.

But there is a provision that there will be somebody from construction on the board to deal with these matters who would have some expertise in the field. So it wouldn't be that every case would go to the board, because, as happens now, most of it's settled without going to any dispute mechanism at all.

**Mr Mahoney:** How many people would you see being on the board who would be competent in the area of making a decision like this?

**Mr Cooper:** My understanding is there would be at least one person from the construction sector on the board who would have expertise.

**Mr Mahoney:** Do you see a lot of complaints going to the board on this type of thing? You've said that most of the disputes would be settled between the local and the international anyway. I assume you mean regardless of Bill 80. They would be settled by the international and the local, the way they always have been.

**Mr Cooper:** That's what we've heard in the past, but what we're doing is setting up a mechanism so that if there is a dispute, then there would have to be just cause shown.

**Mr Mahoney:** Do you have any indication, with one competent individual on the board, that that individual would be able to settle these disputes, that, assuming the 15 days carries, they'd be able to settle the dispute within 15 days, given the size of this province and the number of disputes there could be and the number of complaints there could be?

I'm assuming how this is going to work is, the international will make a ruling—and, again, we're talking about this a little bit in isolation, because we haven't dealt with the amendment on a complaint-driven process. But assuming the complaint-driven process is in place and assuming the 15-day hearing process is in place, then the system would work, as I see it, on the basis that there



would be a dispute between two locals over work. The international would come in and make a ruling. If both locals accept that ruling, everything's fine. If one local doesn't accept that ruling, there would be a complaint filed with the ORLB, at which time there would be an investigation, a hearing and a decision made by that one individual. Is that a safe chronology of how it would work, in your view?

**Mr Cooper:** That there would be a ruling made by the board?

**Mr Mahoney:** No, the chronology that I laid out. The international and the local would either agree or disagree. The international would make a ruling. One of the two parties, obviously the one that loses the work, would then automatically file a complaint with the ORLB.

**Mr Cooper:** Right.

**Mr Mahoney:** So you're dragging the ORLB into every single complaint over work jurisdiction in the construction industry.

**Mr Cooper:** When there is a complaint.

**Mr Mahoney:** Well, why wouldn't there be a complaint every single time? Are the people who lose the work going to just say, "Oh fine, have a nice day," when they've got a complaint process to appeal to? Why wouldn't they just complain every single time?

**Mr Cooper:** If the local realizes they're not viable, as happened in the past, then the international parent has gone in there and taken control.

**Mr Mahoney:** So you don't really need the work dispute in there because it's working fine the way it is. That's what you're saying.

**Mr Cooper:** No, not in every case, as has been indicated by some of the presenters to the committee.

**Mr Mahoney:** I haven't heard work disputes. I've heard people who lost their elected position in the trade labour union that they were involved in and couldn't get it back again or had been removed. I've heard complaints about 15-year-old trusteeships. But I don't recall any complaints—I stand to be corrected; the record would show—over work jurisdiction.

**Mr Cooper:** All right. Basically the attempt here is to avoid any conflicts in the past. As the bill is open, let's fix everything that could possibly happen.

**Mr Mahoney:** Even though it isn't broken.

**Mr Cooper:** Just for protection.

**Mr Mahoney:** Over what?

**Mr Cooper:** In case. That's what Bill 80 is. In case there is a dispute, that's what Bill 80 is there for.

**Mr Mahoney:** So there's nothing broken, but Bill 80 comes in to—

**Mr Cooper:** To take care of any disputes that arise.

**Mr Mahoney:** Even though there aren't any. Who's on first?

**Mr Hope:** That's the scenario you're using, too.

**Mr Mahoney:** Randy, you go ahead and answer the question. I'd be delighted, Mr Trade Labour Movement.

**Mr Hope:** No problem.

**Mr Mahoney:** You answer the question. Why would you not accept the amendments to delete the word "work"?

**Mr Cooper:** My understanding is that when Local 1788 was here, they did make an allegation that their work jurisdiction was being affected.

**Mr Mahoney:** Have you done a look at any of the time or the cost I referred to? Can you tell me if it will be necessary for this one hearing officer who will be a board member to travel to Elliot Lake or wherever there happens to be a dispute on a project? Have you looked at the mechanics of that?

**Mr Cooper:** No, I haven't.

**Mr Mahoney:** So you don't know what it's going to cost. You don't know how much time it's going to take. You don't know if the officer would be able to deal with it without going to a site inspection. You don't know anything about this.

**Mr Cooper:** There are factors that have to be taken into consideration when they go to the board. The board has to take certain things into consideration when it's determining.

**Mr Mahoney:** Well, I guess we should vote on the motion.

**Interjection:** No, no.

**Mr Mahoney:** Do you want me to read it?

**The Acting Chair:** Yes.

**Mr Mahoney:** I move that the definition of "jurisdiction" in subsection 138.1(1) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"jurisdiction" includes geographic and sectoral jurisdiction but does not include work jurisdiction."

**The Acting Chair:** Thank you, Mr Mahoney.

**Mr Mahoney:** I'd like a recorded vote.

**The Acting Chair:** Any further debate?

**Mrs Witmer:** I would just like to indicate that I will be voting against the amendment, simply because I disagree totally with the implementation of Bill 80.

**The Acting Chair:** Seeing no other debate, we'll move into the vote. All those in favour of Mr Mahoney's motion, please signify.

**Ayes**

Cleary, Mahoney.

**The Acting Chair:** All those opposed to Mr Mahoney's motion.

**Nays**

Cooper, Hope, Klopp, Murdock (Sudbury), Sutherland, Witmer.

**The Acting Chair:** Mr Mahoney's motion is defeated.

**Mr Mahoney:** The Tories and the NDP gang up on us again.

**The Acting Chair:** The next motion is a government motion, number 3.

**Mr Cooper:** I move that subsection 138.2(4) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Council

"(4) The minister may, upon such conditions as the minister considers appropriate, require a parent trade union and its local trade unions to form a council of trade unions for the purpose of conducting bargaining and concluding a collective agreement,

"(a) if an affected local trade union, parent trade union or employer requests the minister to do so; and

"(b) if the minister considers that doing so is necessary to resolve a disagreement between a parent trade union and a local trade union concerning conducting bargaining or concluding a collective agreement."

**The Acting Chair:** Discussion on Mr Cooper's motion?

**Mr Mahoney:** I just want to make sure I'm clear on the difference. Could someone tell me the basic difference? As I see it, it's giving the minister certain powers.

**Mr Cooper:** Basically it takes the power away from the minister unless the parent trade union and local can't work it out themselves.

**Mr Mahoney:** Well, I need some help on that. I'm looking at subsection 138.2(4). So it's not discretionary. First of all, there must be a request from either the local or the parent or the employer?

**Mr Cooper:** Yes.

**Mr Mahoney:** Any one of those three makes a request to set up a council for the purposes of collective bargaining, and this would be a council that would bargain on a provincial basis as opposed to a local basis?  
1610

The problem I'm having is that the councils are supposed to be established to bargain province-wide for the particular sector, yet they're being set up at the request of a local in a dispute. So who's going to make up the council? Who's going to make those decisions?

You say it's taking power away from the minister. Clause (b) says if the minister considers that doing so, setting it up, is necessary to resolve a disagreement, then he can do that. That sort of gives him a broad base that these guys come to a point of disagreement and he can just go in and set up a whole new body to come in and take over the negotiations.

**Mr Cooper:** With the conditions that are listed under (b).

**Mr Mahoney:** What are those conditions?

**Mr Cooper:** "If the minister considers that doing so is necessary to resolve a disagreement between a parent trade union and a local trade union concerning conducting bargaining or concluding a collective agreement."

**Mr Mahoney:** So the only condition is that if the minister thinks he needs to do it, he can do it. How do you say that takes power away from the minister?

**Mr Cooper:** In (a) it says, "requests the minister to do so."

**Ms Murdock:** And that's the answer.

**Mr Mahoney:** Well, I'm sorry; this says, "if an affected local...parent...or employer requests the minister to do so," I see, and you're saying, and also, "if the

minister considers that doing so is necessary." Right? So they have to go hand in hand, those two?

**Mr Cooper:** That's right.

**Mr Mahoney:** Is that correct, to the staff?

**Mr Kovacs:** Yes.

**Mr Mahoney:** Both conditions have to be met?

**Mr Kovacs:** Yes.

**The Acting Chair:** Any further discussion on Mr Cooper's motion?

**Mrs Witmer:** I just want clarification. I see that this amendment supposedly is to limit the minister's intervention in cases where an affected party has applied, but I just want to make sure that (a) does have to occur before (b), that it's not an either/or situation.

**Mr Hope:** The word "and" makes—

**Mrs Witmer:** It says "and," but I'm not—

**Ms Murdock:** Under the Interpretation Act, legally, "and" is inclusive and the two must occur. If it was going to be an either/or situation, it would read "or."

**Mrs Witmer:** So you are saying what then, Ms Murdock, for the record?

**Ms Murdock:** Legally, "and" is inclusive. Both have to occur.

**Mrs Witmer:** So what has to happen first?

**Ms Murdock:** Both must occur for the minister to intervene.

**The Acting Chair:** Thank you, Ms Murdock. Any further discussion, Ms Witmer? Any other questions?

**Mrs Witmer:** No.

**Mr Mahoney:** What would happen in the case where the local, the parent and the employer all came in and said, "We're at loggerheads here, we want a council set up to help us resolve this problem," and the minister said no? Does the minister then have the right to turn around and say no to those people?

*Interjection.*

**Mr Mahoney:** Well, maybe your minister wouldn't, but another one might.

**Mr Hope:** Let me pose the question—

**Mr Mahoney:** I'm open to that.

**Mr Hope:** I think he's got to answer it. It's easy to ask a question, but when you've got all three parties coming forward, why would any individual do it? You're bringing a hypothetical viewpoint in. That's a hypothetical. Why would a minister, if all three parties come forward with a unanimous recommendation to do something, reject it?

**Mr Mahoney:** You could get a government in the future that believes that interfering in the collective bargaining process was inappropriate and therefore just ships them back.

**Mr Hope:** But you always get governments who come in on the request of both agents to act as a mediator to solve a dispute problem. That is common. That's been going on in labour history for ever.

**Mr Mahoney:** Then that begs the question as to why this is here at all.

**Mr Hope:** So why would they?

**Mr Mahoney:** If that's been going on, Mr Hope, why is this here at all?

**Mr Hope:** I'm not saying in this sector and that sector—

**Mr Mahoney:** The current status quo is that where there's a dispute and they come in and ask—now what you're asking for is that the government, just like in essential services—

**Mr Hope:** No, no. It's easy to twist things.

**Mr Mahoney:** —or in the school teacher dispute, the government's now going to get in and resolve potential strikes, or even existing strikes in the construction industry, because these guys can't cut a deal. That's what you're saying.

**Mr Hope:** No, you're twisting words.

**Mr Mahoney:** I'm not twisting anything.

**Mr Hope:** Yes, you're bringing in the hypothetical. It could rain tomorrow. You're making a deal with hypotheticals. That's exactly what you've been doing in the last two presentations.

**Mr Mahoney:** I asked a very simple question.

**Mr Hope:** And I threw it back to you.

**Mr Mahoney:** That is, if all three parties came in collectively and said they couldn't come to an agreement, why would the minister have the option of somehow, in some omnipotent way, deciding that it's not necessary and sending them back out? If you really want to resolve the problem and all three parties come forward, why wouldn't the minister set it up? Why would he have the option of walking away from it?

Really the question is, why is he in the position in the first place? It's ridiculous. Mr Hope has admitted—

**Mr Hope:** No, no, wait a second.

**Mr Mahoney:** —that currently the way the system works is that people come forward and ask for help and that help is there and there's not a problem. Once again, another amendment to a bill that's superfluous to the entire issue.

**Mr Hope:** He's twisting words constantly.

**The Acting Chair:** Mr Hope, you wish to respond?

**Mr Hope:** I'm just saying he's twisting words constantly. He makes statements, and you know you can't interject until the Chair recognizes you, so he gets to put it on Hansard. He can twist words any which way he wishes.

**Mr Cooper:** First of all, what we're trying to do here is make it so that the minister isn't intrusive, that he doesn't get involved until it's brought to him. Yes, there is a condition where he could quite possibly say, "No, I'm not going to help you with this," and then it would be sent back to the employers, the parent international and the locals to deal with it themselves. But obviously he'd be looking at conducting bargaining, including collective agreements, when he takes this into consideration. If it would cause a disruption, I can't see a minister walking away from it.

**The Acting Chair:** Ms Witmer, you had a question?

**Mrs Witmer:** Yes. Actually, this amendment is going to allow more ministerial intervention, because if you take a look at (a), my concern is that only one of the local trade union or the parent trade union or the employer request the minister to get involved. Really, I would be much more comfortable if all three were required.

I can see that as a result of this particular section you're going to see far more ministerial intervention in cases where the bodies should be dealing with the problem themselves, and I'm most concerned. That's what this bill is all about: It's more interference in the negotiations that properly should be taking place between the trade unions and the employer.

**Mr Cooper:** In the original wording in Bill 80, the minister can go in at any time. What we're saying now is that it's only if somebody approaches the minister that he would go in. By requiring all three, if there's a disagreement out there, obviously all three aren't going to be coming in together asking the minister to settle it.

**Mr Mahoney:** Point of order: There is no requirement to require all three. The word "or" is used.

**Mr Cooper:** Ms Witmer is asking for all three, which is what I'm responding to.

**Mr Mahoney:** I'm sorry. Okay.

**Mr Cooper:** Obviously if there is a dispute out there, all three wouldn't come forward. Basically what Bill 80 is doing is trying to give fairness to the locals away from the international, so to ask for all three to come forward would be unworkable.

**The Acting Chair:** Thank you, Mr Cooper. Any further discussion on this amendment?

**Mr Mahoney:** Recorded vote.

**The Acting Chair:** Mr Mahoney has requested a recorded vote. All those in favour of the government motion?

**Ayes**

Cooper, Hope, Jamison, Klopp, Murdock (Sudbury), Sutherland.

**The Acting Chair:** All those opposed?

**Nays**

Cleary, Mahoney, Witmer.

**The Acting Chair:** The government motion carries.

**Mr Hope:** What about Mr Murdoch over there?

**The Acting Chair:** Mr Murdoch is not a voting member of the committee.

**Mr Bill Murdoch (Grey-Owen Sound):** I'm not—

**The Acting Chair:** He's just a member who has interest, as does Mr Kormos in the back.

**Mr Peter Kormos (Welland-Thorold):** I'm so used to being in the back, Chair, that I wouldn't think of sitting anywhere else.

**The Acting Chair:** Why did I do that? It's self-destruct.

The next motion is also a government motion, dealing with section 2, government motion number 4.

**Mr Mahoney:** Could I have some explanation of this?



**Mr Norm Jamison (Norfolk):** How much do you want?

**Mr Mahoney:** Well, it looks like it says the same thing. I don't understand what the problem is.

**Mr Cooper:** Basically it's just a technical amendment to bring in the more usual language used in the Labour Relations Act.

**The Acting Chair:** Would you read the motion in?

**Mr Cooper:** I move that subsection 138.2(6) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Compliance

"(6) The parent trade union and the local trade unions shall comply with rules made by the minister."

**The Acting Chair:** Mr Mahoney, you wanted some discussion on this, I believe.

1620

**Mr Mahoney:** Maybe the staff could explain to me why it just looks like we took the same basic words and juggled them around; I don't know.

**Mr Kovacs:** Yes, that's right. They were juggled to meet the more usual format of LRA provisions that require compliance with a statutory rule, so the statement that certain parties are required to do something.

**The Acting Chair:** Mr Mahoney, any further discussion?

**Mr Mahoney:** I don't see that, but I'll vote against it anyway.

**Mrs Witmer:** This amendment in the revised draft that came out on October 4 said that every parent trade union and local trade union shall comply with rules made by the minister. You've changed it to read "the parent trade union." What's the difference?

**Mr Kovacs:** The same explanation applies. There's not intended to be a difference. The LRA, when it creates an unfair labour practice, talks in prohibitory terms, and the original language didn't use that typical prohibitory language. So this follows the language that the labour board is accustomed to seeing and that the Labour Relations Act uses in every other provision that creates a rule that a party governed by the act is required to follow.

The concern was that use of a different grammatical format might force the labour board to believe there was some different sort of reading that it was to give to this provision as opposed to every other provision in the Labour Relations Act that creates a rule that a party must follow.

**The Acting Chair:** Any further questions, Ms Witmer?

**Mrs Witmer:** No, that's fine.

**The Acting Chair:** Seeing no further discussion on the amendment, all those in favour of the amendment put forward in the government motion, please say aye. Opposed? The ayes have it.

We move on to a Liberal amendment, amendment 5, Mr Mahoney.

**Mr Mahoney:** I move that subsection 138.3(1) of the

act, as set out in section 2 of the bill, be struck out and the following substituted:

"Jurisdiction of the local trade union

"(1) A parent trade union shall not alter the jurisdiction of a local trade union, whether established under a constitution or otherwise, as the jurisdiction existed on May 1, 1992, unless there is just cause for the alteration.

"Board powers

"(1.1) In an application under section 91 relating to subsection (1), the board shall consider the trade union constitution when determining what constitutes just cause and may take into account such other matters as the board considers appropriate."

**The Acting Chair:** Any discussion on the motion?

**Mr Hope:** Could we get Mr Mahoney to explain that for us?

**Mr Mahoney:** Basically, the important part is that, "The board shall consider the trade union constitution," which took up an awful lot of the time of the deputants and the members of this committee in debating and discussing. I want to ensure that in fact the board when looking at it will indeed consider their constitution and that we all recognize, frankly, the significance of a constitution passed in a democratic way.

**Mr Cooper:** We won't be supporting this because we have an amendment coming up later on and in consultations with the AFL-CIO, which has asked for stronger wording on the just cause, which isn't covered under the Liberal motion but will be covered under our amendment.

**Mr Mahoney:** Which is your amendment?

**The Acting Chair:** I believe it's number 8, Mr Mahoney.

**Mr Mahoney:** Okay.

**The Acting Chair:** Any further discussion on Mr Mahoney's amendment? Hearing none, all those in favour of Mr Mahoney's amendment? All those opposed? The ayes have it. Mr Mahoney's motion is defeated.

Mr Mahoney, Liberal motion 6.

**Mr Mahoney:** I move that section 138.3 of the act, as set out in section 2 of the bill, be amended by adding the following subsections:

"Decision

"(4) On an application relating to this section, the board shall issue a decision within fifteen days after the application is made.

"Same

"(4.1) The board may extend the deadline established under subsection (4) if it considers such an extension appropriate in the circumstances."

I think it's self-explanatory. I guess time being of the essence, the concern about the backlog, it's been addressed in other discussions, the ability of one member of the board to deal with this in an expeditious manner, and the nature of the business, the fact that it's in construction, whether it can play an important part. Timing is critically important and I just think we want these disputes dealt with as quickly as possible.

I understand the government has some amendment—

and I will be honest, I haven't had time to look at it—so I'm prepared to consider whether or not it encompasses this and replaces it if Mr Cooper wants to address that. I don't which one it is.

**Mr Cooper:** Yes, Mr Mahoney. Right at the end of the package, we will be dealing with expedited hearings.

**Mr Mahoney:** Number 22 is the amendment?

*Interjection.*

**Mr Mahoney:** Could I get an explanation? I mean, looking at 22, I can't make that out at all. To the staff: Would that comply with the intent under the amendment I've put forward on page 6?

**Mr Kovacs:** Rather than setting an exact time limit of 15 days for issuance of the decision, what subsection 104(14) of the Labour Relations Act does is permit the labour board to establish special rules for expedited proceedings. The board, since being empowered to do so, has created expedited proceedings that result in issuance of decisions often faster than in 15 days.

**Mr Mahoney:** It would be strictly up to the board, though, whether or not. They could take 30 days or 60 days on such a hearing under that section.

**Mr Kovacs:** None of the rules they have now take 30 or 60 days.

**Mr Mahoney:** No, I didn't ask that. Could they take whatever time they wanted to dispose of an issue with the amendment that's being proposed on page 22?

**Mr Kovacs:** I'm not sure of the answer to that, frankly.

**Mr Mahoney:** Well, I need an answer. If not, I'm leaving my amendment on the floor then.

**Mr Hope:** Call the vote then.

**Mr Mahoney:** Recorded vote.

**The Acting Chair:** All those in favour of Mr Mahoney's motion, please signify.

**Ayes**

Cleary, Fawcett, Mahoney.

**The Acting Chair:** All those opposed?

**Nays**

Cooper, Hope, Jamison, Klopp, Murdock (Sudbury), Sutherland, Witmer.

**The Acting Chair:** The motion is defeated.

The next is once again a Liberal motion, number 7.

1630

**Mr Mahoney:** I move that section 138.3 of the act, as set out in section 2 of the bill, be amended by adding the following subsection:

"Complaint

"(5) If a local trade union makes a complaint to the board concerning the alteration of its jurisdiction by a parent trade union, the alteration shall be deemed not to have been effective until the board disposes of the matter."

By way of explanation, we heard a lot of complaints from people in support of Bill 80 saying that the international could simply come in or that a change could occur without any opportunity for them to have any impact, and

presumably that's the purpose of Bill 80.

What I'm suggesting here would need to go hand in glove with the other amendment that it be based on a complaint system so that in real terms the international would do whatever, make a ruling on something, and a complaint would then be filed by the local and the board, had my previous motion carried, would've had 15 days in which to make a decision. Now of course it's opened and we don't know the answer as to how long they can take, but in any event this is really an amendment in support of those people in favour of Bill 80, because this says the changes won't take effect until the matter has been disposed of by the board. I understand that's a particular bone of contention for people who think the internationals have been able to act in a unilateral, arbitrary way.

**Mr Cooper:** I know we've looked at this and we have discussed it. We were looking at it that if complaints were put in place the board could bring down an interim order. But there was some question about this, and duplication and all that, so I think we'd be prepared to support this amendment.

**Mr Mahoney:** I might have to reconsider it.

**Mr Cooper:** Just to facilitate the proceedings.

**Mr Mahoney:** Somebody has screwed up big time here; I don't know.

*Interjections.*

**Mr Mahoney:** We'll go for it. Nice to win one.

**Ms Murdock:** Just on that, the point that's raised by Mr Mahoney and was raised by other people who made presentations here is that in actual fact they would probably just ask for an interim order anyway, but this would resolve that and it would save the OLRB some work.

**Mr Mahoney:** Happy to help.

**Ms Murdock:** We're happy to be supporting this. We won't have to listen to you any more telling us how we haven't supported any of your amendments.

**The Acting Chair:** I take it we have no further discussion. Mr Mahoney has asked for a recorded vote. All those in favour of Mr Mahoney's motion?

**Mr Mahoney:** Hold your nose.

**Ayes**

Cleary, Cooper, Fawcett, Hope, Jamison, Klopp, Mahoney, Murdock (Sudbury), Sutherland.

**The Acting Chair:** Opposed?

**Nays**

Witmer.

**The Acting Chair:** The motion is carried.

The next is a government motion, number 8.

**Mr Cooper:** I move that section 138.3 of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Jurisdiction of the local trade union

"138.3(1) A parent trade union shall not, without just cause, alter the jurisdiction of a local trade union as the jurisdiction existed on May 1, 1992, whether it was

established under a constitution or otherwise.

"Notice

"(2) the parent trade union shall give the local trade union written notice of an alteration at least fifteen days before it comes into effect.

"Determination of just cause

"(3) On an application relating to this section, the board shall consider the following when deciding whether there is just cause for an alteration:

"1. The trade union constitution.

"2. The ability of the local trade union to carry out its duties under this act.

"3. The wishes of the members of the local trade union.

"4. Whether the alteration would facilitate viable and stable collective bargaining without causing serious labour relations problems.

"Same

"(4) The board is not bound by the trade union constitution when deciding whether there is just cause for an alteration."

**Mr Mahoney:** This amendment, probably more than anything, shows the absurdity of this whole issue, of the whole bill. If you took subsection (3) and pulled it out of this amendment, you'd say it makes sense that "on an application relating to this section, the board shall"—and the key word is "shall"—"consider the following when deciding whether there is just cause for an alteration." You're putting some sort of sense into arriving at the just-cause debate here.

The first thing they shall take into consideration is the trade union constitution. Then it turns around and goes down and says the board's not bound by that same constitution.

What is the point of them even considering it? You're just spinning wheels, or trying to put out some kind of sop to the union to say: "We're going to look at your constitution, but we don't really care what it says. It's irrelevant to the issue, because we're not bound by it, even though it was voted on by a majority of your members, even though you have a system in that constitution to deal with disputes, to deal with amendments, to deal with jurisdiction, to deal with all of those things. Even though your constitution's probably 100 years old, we're going to ignore it. We're just going to go ahead and deal with this."

To the clerk: Is it in order that an amendment is actually contrary within itself, where it says in one that they shall consider the trade union constitution and then, without even taking a breath, says that they're not bound by that constitution? Is there any opinion, Mr Chair, as to whether or not this thing is contrary to its own intent and therefore out of order?

**The Acting Chair:** Mr Mahoney, I've just looked at it again, and I would have to disagree.

**Mr Mahoney:** Disagree with what?

**The Acting Chair:** With your statement on that.

**Mr Mahoney:** It was a question.

**The Acting Chair:** Okay, your question.

**Mr Mahoney:** How can you disagree with my question? Is the answer yes or no?

**The Acting Chair:** The answer is no.

**Mr Mahoney:** Well, I'm going to vote against this, and I think this is really the nub of the whole thing, that what we're going to wind up with as a result not only of this bill but this ambiguous amendment is the government now coming along and solving all the problems which in essence are internal to the construction labour sector that they should be and have been resolving by themselves. The parliamentary assistant has already admitted that most of the disputes get resolved by themselves in any event.

**Mr Hope:** No, he didn't.

**Mr Mahoney:** Well, this parliamentary assistant did. For some minute perceived alleged disputes that can't be resolved within—really the private sector is what it is, because the unions are private sector organizations—we're going to bring in a hammer and we're going to resolve it for them, and then we're not even going to be bound by their rules, which have been put in place by their constitution.

You know what's next? We're going after Rotary clubs next. After we take care of the trade labour movement, we're going to tell those Rotarians that they've got no business meeting for lunch on Wednesdays. We're going to fix them, let me tell you, boy.

**Mr Kimble Sutherland (Oxford):** Don't be so paranoid.

**The Chair:** Thank you, Mr Mahoney.

**Mr Mahoney:** I'll tell you, Rotarians are in deep trouble now, and then maybe the Optimist Club, and then maybe the Knights of Columbus.

**Mr Paul Klopp (Huron):** Is this part of your red book? Is this Liberal policy?

**Mr Mahoney:** This is a government for the people, I can tell you. What a joke.

**Mr Sutherland:** Come back to reality some day, Steve.

**Mr Mahoney:** I'm against this, by the way.

**Mrs Witmer:** I would indicate to you that it's fine to tinker with this whole section 138.3, but certainly one of the amendments we had considered introducing which would have been ruled out of order would have been to completely delete and strike out the entire section 138.3, because certainly this does allow for government interference in the internal affairs of the organizations within the province of Ontario, and we are very concerned about the intrusion into the area of jurisdiction. As I say, we would have asked for that, but that would have been ruled out of order because you can't make motions to strike out sections.

I'm concerned, if you take a look at 138.3 here that's being proposed by the government, that we have a totally new requirement here. That is 138.3(2). We've got a totally new requirement here that was not part of the October 4 revised draft. That is, "The parent trade union shall give the local trade union written notice of an



alteration at least fifteen days before it comes into effect." If you take a look at 138.3(3), we have a totally new clause here in 4 which was not part of the October 4 draft. "Whether the alteration would facilitate viable and stable collective bargaining without causing serious labour relations problems."

In 138.3(4) this is new wording, and this means, it says here, "The board is not bound by the trade union constitution when deciding whether there is just cause for an alteration," which simply means, "It doesn't matter what's contained here, folks, the board can overrule the trade union constitution": invasion, intrusion, interference in the internal affairs.

Personally, I don't believe the government has any right to interfere in the internal affairs of these organizations within this province, and that entire section, as far as I'm concerned, should have been struck out.

1640

**Mr Cooper:** I guess I should respond to Mr Mahoney. With the Rotarians, the thing is theirs. If they choose to disaffiliate, they can disaffiliate. This is what the problem is here, the disaffiliation problem.

**Mr Mahoney:** You took that out of the bill.

**Mr Cooper:** That's right, but this whole thing is to create some harmony within the construction trades. That's what it's for. So this is what that's all about.

As for being insignificant, if you look at it right now, 95% of labour disputes are settled peacefully internally, but still there's that 5% who do use that right to strike, and that's why we need this for the 5%, or whatever percentage can't come to an agreement, that there would be a dispute mechanism.

As for taking the constitution into consideration, it's best to take it into consideration rather than ignore it, and this is something that was asked for, that we don't totally ignore the constitution. That's why it's written in there. But also the board has to have the freedom to not be bound by the constitution.

**Mr Hope:** I just wanted to mention that at the beginning of this process, legislative research filed a report with this committee which is very useful. It just says on page 13 that what this amendment does is present an issue that was brought forward by the Building and Construction Trades Department. Clearly it's a good thing we have legislative research to do good work, because it just shows in the amendment. The people's concerns they brought forward have been addressed in the amendment put forward by the government.

**The Chair:** Any further discussion? Hearing no further discussion, unless you want to make—

**Mr Mahoney:** Recorded vote.

**The Chair:** Mr Mahoney has asked for a recorded vote on the government motion. All those in favour?

**Ayes**

Cooper, Hope, Jamison, Klopp, Murdock (Sudbury), Sutherland.

**The Chair:** Opposed?

**Nays**

Cleary, Fawcett, Mahoney, Witmer.

**The Chair:** The motion is carried.

The next amendment is a Liberal amendment.

**Mr Mahoney:** I move that subsection 138.5(1) of the act, as set out in section 2 of the bill, be amended by striking out "directly or indirectly in such a way that the autonomy of the local trade union is affected" in the fifth, sixth and seventh lines.

By way of explanation, I think it's fairly simple. The concern is one of definition. How broad do you get with this "directly or indirectly"? What does it mean? It's left open to interpretation of how a local's autonomy may or may not be affected. I think members might agree that you could even have disputes over whether or not that autonomy was affected within the local itself. That happens on a regular basis. So you're leaving it open to fights, frankly, within the labour movement that are not necessary.

What it should say is, "A parent trade union or a council of trade unions shall not, without just cause"—and it's your principle that the just-cause thing should come into play in the construction industry—"assume supervision"—that's clear—"or control of"—that's clear—"or otherwise interfere with a local trade union."

If they do that, then the local already has the right to appeal to the OLRB, or will have, if that amendment is carried. They will have the right to appeal a complaint. There will be a hearing and a decision will then be made.

It seems to me it's duplication here and very argumentative to put in the words "directly or indirectly" interfering in their autonomy, and I think you're going to save a lot of trouble if you adopt this particular amendment.

**The Acting Chair:** Any further discussion? Seeing none, I'll put the question. All those in favour of Mr Mahoney's motion?

**Mr Mahoney:** Carried.

**Interjections:** No.

**The Acting Chair:** No? The nays have it. The motion is lost.

**Mr Mahoney:** You'll be sorry.

**The Acting Chair:** Number 10 is also a Liberal motion.

**Mr Mahoney:** I move that subsection 138.5(3) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Board powers

"(3) In an application under section 91 relating to this section, the board shall consider the trade union constitution when determining what constitutes just cause and may take into account such other matters as the board considers appropriate."

The purpose here is probably the greatest fear and concern that has been expressed by those opposed to this bill, how things are sort of left up in the air, the definition of "just cause."

I don't think anybody would dispute that if someone had stolen all the money or something in a local, that constitutes just cause. In fact it appears from what research we have done and what we've seen in the

presenters that those trusteeships have been indeed surrounding issues of that magnitude: misappropriation of funds or whatever, that type of thing—dishonesty or alleged dishonesty. Nobody wants to see in relationship to the locals and the relationship with the international.

So if an international receives complaints and there is evidence, they would go in and investigate, and if they receive complaints that the treasurer or the business manager has absconded with the money, they could then impose a trusteeship, at which time someone could complain and the OLRB would hear it. But the reality is that if indeed the money's gone, then that trusteeship would obviously be upheld and there would be some work between the international and the local to replace the individual who had committed the foul.

The concern is that that's one clear-cut example of just cause. There may be examples where just cause is once again up to subjective opinion. What's just cause to you may not be to me and vice versa.

All I'm asking for is that when determining what constitutes just cause, the board shall consider—that's all it says—the trade union constitution in arriving at that. It even goes so far as, it may take into account such other matters as the board considers appropriate.

I think this is a very fair amendment that might at least give the parent union and the members of that union, and all the people who are opposed to this bill, the feeling that at least they're going to look at the constitution in making the ruling.

**Mr Cooper:** I bring Mr Mahoney's attention to number 13, the government motion we'll be putting forward. I think it's covered under there, almost word for word, with a slight variation. The board powers, at the bottom.

**Mr Mahoney:** The problem is that we have to vote on that particular amendment in its entirety. We can't sort of split the motion, which is, by the way, something for long-term parliamentary reform we should consider doing, splitting motions, because very often you find that you or the opposition could support certain parts of an amendment and not other parts. That's an argument for another day.

So I would ask you to support this in its own right, which makes the amendment, and then if your amendment, obviously, would carry, you could make the adjustment. I don't know how that would physically work or technically work with the staff, but I've got some concerns about the motion on 13.

1650

**The Acting Chair:** Any further discussion? Hearing none, all those in favour of Mr Mahoney's motion, say aye. All those opposed? The nays have it. The motion is lost.

The next one is Liberal motion 11.

**Mr Mahoney:** I move that section 138.5 of the act, as set out in section 2 of the bill, be amended by adding the following subsections:

"Decision

"(3.1) On an application under section 91 relating to this section, the board shall issue a decision within fifteen days after the application is made.

"Same

"(3.2) The board may extend the deadline established under subsection (3.1) if it considers such an extension appropriate in the circumstances."

I've already made the arguments in favour of the 15 days, so I won't bore the committee and make them again. There you go: God's little mercies.

**The Acting Chair:** Any discussion on the motion?

**Mr Cooper:** Same arguments as were presented under Liberal motion on page 6. We will not be supporting it.

**The Acting Chair:** Any other discussion? Hearing none, all those in favour of the motion? All those opposed? The nays have it. The motion is lost.

Liberal motion 12.

**Mr Mahoney:** We might get one here.

I move that section 138.5 of the act, as set out in section 2 of the bill, be amended by adding the following subsection:

"Complaint

"(4.1) If a local trade union makes a complaint to the board concerning an action described in subsection (1), the action shall be deemed not to have been effective until the board disposes of the matter."

I believe that goes together with the other amendment the government members supported already.

**Mr Cooper:** I disagree. When we were talking about jurisdiction, there was prior notice given, and that's why it was necessary there, but we don't see it as necessary at all in this case.

**The Acting Chair:** Any further discussion? Hearing none, all those in favour? Opposed? The motion is lost.

Government motion 13.

**Mr Cooper:** I move that subsections 138.5(1), (2), (3) and (4) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"Interference with the local trade union

"(1) A parent trade union or a council of trade unions shall not, without just cause, assume supervision or control of or otherwise interfere with a local trade union directly or indirectly in such a way that the autonomy of a local trade union is affected.

"Same, officials and members

"(2) A parent trade union or a council of trade unions shall not, without just cause, remove from office, change the duties of an elected or appointed official of a local trade union or impose a penalty on such an official or on a member of a local trade union.

"Board powers

"(3) On an application relating to this section, when deciding whether there is just cause the board shall consider the trade union constitution but is not bound by it and shall consider such other factors as it considers appropriate."

**Mr Mahoney:** I'll have to check the Hansard, but I

think I heard Mr Cooper say in relationship to the motion I put forward regarding subsection (3) under board powers that the wording was virtually identical. I think those were the words that you used.

This is the problem. What you guys think is virtually identical is not even close. Mine says, "The board shall consider the trade union constitution when determining what constitutes just cause." This one says, "when deciding whether there is just cause the board shall consider the trade union constitution but is not bound by it." It's a minor detail to add that "but is not bound by."

I hate to be so picky in this stuff. "Is not bound by it." Why are you bothering? I mean, it's contrary. You're telling them they should consider the democratically elected constitution, "But don't worry about it, guys, because you don't have to pay any attention to it."

#### *Interjections.*

**Mr Mahoney:** Well, that's what you're saying. It's just nonsense. This does not replace the amendment on page 10 that I valiantly fought for and lost.

**The Acting Chair:** Ms Witmer, you wanted in on the discussion.

**Mrs Witmer:** Yes. This certainly would have been an area, 138.5 of the act, that we would have moved to have struck out altogether. We're very concerned about the interference that's going to take place with the local trade union.

I see as well that there have been some changes made in subsection 138.5(2). There has been an addition and there has been some new wording added here, "or impose a penalty on such an official or on a member of a local trade union." As well, I'm very concerned about subsection 138.5(3).

This new wording that has been introduced by the government is much more far-reaching, is much more intrusive, because it is not limited to just cause. What you have here is a board which once again is not being bound by the constitution. I'm certainly extremely concerned about the ability of the board to interfere in the internal affairs and the fact that the government wording is much more intrusive than it was in the original version. It appears that what the government has done in the Bill 80 amendments is to listen to only one side of the debate.

**The Acting Chair:** Any further discussion? Oh, Mr Hope. I'm sorry.

**Mr Hope:** I was interested in Mr Mahoney's comments, and I'd just ask him, with all the labour background I know his father used to have with the Steelworkers, where under any board or quasi-tribunal system or any judicial system the constitution superseded any judicial process.

**Mr Mahoney:** Do you want me to answer that?

**Mr Hope:** Yes.

**Mr Mahoney:** I don't know of any other jurisdiction anywhere in the world that has seen fit to impose legislation in such a heavy-handed way on private sector unions in resolving their disputes.

I know what the Steelworkers did. They resolved their problems between the locals and the internationals and

concentrated on getting better-quality living conditions for their members. That's what they were concerned about, and on keeping plants like Algoma and Stelco and Dofasco and others in business.

#### *Interjections.*

**The Acting Chair:** I believe Mr Hope was up first.

**Mr Hope:** I asked a direct question, and I didn't get a direct answer, so that's what I was just curious about. I know he rambled on about labour history and solidarity. We're all familiar with that. But I did ask a direct question about the quasi-tribunal and judicial process upholding the constitutions that are there in any decision-making process and Mr Mahoney just kind of went around the long bend—

**Mr Mahoney:** They lived by the ILO rules too. That's another thing they did.

**Mr Hope:** —and never answered the question I put forward.

**Mr Mahoney:** CLC and the Steelworkers lived by the ILO rulings.

**Mr Hope:** Check them.

**Mr Mahoney:** Oh, I know them well.

**Mr Hope:** Check them.

**Mr Mahoney:** Not only was he on the Steelworkers, he was on the ILO. I know it well.

**The Acting Chair:** Any further discussion? Hearing none, all those in favour of the government motion? Opposed? The ayes have it. The motion is carried.

**Mr Mahoney:** By the way, why don't you make this apply to steel? That would be a heck of a good idea.

#### *Interjections.*

**The Acting Chair:** Mr Mahoney, Mr Jamison, please.

We have another amendment, the Liberal motion number 14.

**Mr Mahoney:** I move that section 2 of the bill be amended by adding the following section to the act after section 138.5, entitled "Arbitration"—a novel procedure:

#### *"Arbitration"*

"138.5.1 A party to a dispute relating to subsection 138.3(1) or 138.5(1) or (2) may request the Minister of Labour to refer the matter to an arbitrator, and section 46 applies with necessary modifications."

The traditional way of settling disputes through mediation, through arbitration, through collective bargaining, through negotiations seems to me should still be upheld, particularly by this supposedly traditional labour government. It would be interesting to see them vote against something as democratic as arbitration.

1700

**Mr Mahoney:** Recorded vote.

**The Acting Chair:** No further discussion? It's a recorded vote. All those in favour of Mr Mahoney's motion?

#### *Ayes*

Cleary, Fawcett, Mahoney.

**The Acting Chair:** Opposed?



## Nays

Cooper, Hope, Jamison, Klopp, Murdock (Sudbury), Sutherland, Witmer.

**The Acting Chair:** Mr Mahoney's motion is lost. We're at the end of section 2.

Shall section 2, as amended, carry? Carried.

It now being 5 o'clock—

**Mr Mahoney:** Here comes the hammer.

**The Acting Chair:** I should inform you before we go into this that amendment 22, the government motion, is out of order. This amendment once again attempts to amend a section of the act that is not included in the original bill. Such amendment is out of order.

**Mr Mahoney:** Could I get some explanation from staff? That's two government amendments that are ruled out of order, yet they were brought forward by the government as being necessary in this bill. Can somebody tell me what happens now? What have we got? Have we got a camel or have we got a donkey?

**The Acting Chair:** I'm afraid that it's now 5 o'clock and discussion is out. I can just notify everyone that this motion is out of order.

## Interjections.

**Mr Mahoney:** Section 1 of the bill doesn't exist.

**Mr Cooper:** If I could have unanimous agreement to respond to this, to Mr Mahoney's concern, just clarification?

**The Acting Chair:** With unanimous consent, as far as I'm concerned, you can do virtually anything.

**Mr Cooper:** Basically, if number 22 is not done in the bill, it will be done through regulations. The purpose of doing it through the bill was to have it all together in one section in the bill so that people wouldn't have to be cross-referencing.

**Mr Mahoney:** And that applies to the first amendment you put forward as well, because this bill technically, in being reported—

**Mr Cooper:** No, not the first one, just this one.

**Mr Mahoney:** It's the first one that I was asking about. We're reporting this bill into the Legislature under time allocation without section 1. You defeated it. It doesn't exist. This bill starts at B in the alphabet. What do we do now, go home?

**Mr Kovacs:** May I respond?

**The Acting Chair:** Yes. I think we have unanimous consent for this discussion, so indeed.

**Mr Kovacs:** The purposes of the section 1 amendment and this amendment are different ones. The section 1 amendment, as I noted, was a technical error. The second motion, which we're discussing now, does not attempt to correct any error in the bill; rather, as I understand, it's a government response to submissions made during the public hearings, in particular requests for expedited proceedings.

Section 104 of the Labour Relations Act creates a regulation-making power whereby the government may pass regulations that would permit it to list particular provisions in respect of which the labour board might

make special rules to expedite proceedings. So the effect of this motion could be achieved by regulation. It was the ministry's advice to the government that it would be preferable to have this amendment occur within the statute so the community that's affected by the provisions can read all the provisions that affect it on the face of the statute, rather than referring to the statute and a regulation.

**Mr Mahoney:** What about section 1? What happens now? We report this bill to the House without a section 1 of the bill?

**Mr Kovacs:** I think you should refer that question to legislative counsel. That's right, it would be without section 1.

**Mr Mahoney:** Staff suggests that we refer the question to legislative counsel. The question was, section 1 of the bill was defeated. There was no amendment approved to replace it, so it's gone. So we now report this bill without section 1, only section 2 and 3. Is that correct?

**Ms Laura Hopkins:** That's correct, and when the bill is reprinted, it will be renumbered so it begins with section 1.

**Mr Mahoney:** How tricky. Look at that.

**Mr Hope:** The consent was to discuss this one, not to discuss section 1.

**Mr Mahoney:** I got my answer.

**Mr Hope:** I know, and unfortunately it was out of order, for the simple fact—

**Mr Mahoney:** I don't think it was out of order at all.

**Mr Hope:** —that there was unanimous consent that was asked to discuss this one, not the one—

**Mrs Witmer:** He's out of order.

**Mr Hope:** No, no, no.

**Mr Mahoney:** My question was on both, and it was on the basis of how you report a bill—

**Mr Hope:** It was brought up under this section here.

**Mr Mahoney:** —with government amendments being put forward and withdrawn because they're out of order. It's most unusual. As Mrs Witmer has pointed out, they didn't put amendments because they all would have been ruled out of order. It's not unusual to have opposition amendments ruled out of order. It seems to me somewhat unusual—

**Mr Hope:** No, it's not.

**Mr Mahoney:** —to have government amendments ruled out of order and then to have the government members vote against their own section within a bill.

**Mr Hope:** That's pretty common. I've seen it done many times. I've seen it done by you guys when you used to be over here, quite a bit.

**Mr Mahoney:** It's been an interesting education the last three years.

**Mr Hope:** I used to see it quite often when you were over here.

**Mr Mahoney:** Thank God it will be coming to an end.

**Ms Murdock:** I don't think so.

**Mr Sutherland:** Oh, yes, everything was perfect before, wasn't it?

**Mr Mahoney:** It was a hell of a lot better than this, let me tell you that, Kimble. You probably had more fun too. You were still in school.

**The Acting Chair:** Are we ready to proceed?

**Mrs Witmer:** It's up to you, Mr Chairman.

**The Acting Chair:** I've allowed some debate, by unanimous consent. Are we now ready to proceed?

**Mr Cooper:** For clarification, is Mr Mahoney not giving unanimous consent?

**Mr Mahoney:** On what?

**Mr Cooper:** On the one that's out of order, on 22?

**Mr Mahoney:** I wasn't asked.

**The Acting Chair:** No one was asked.

**Mr Mahoney:** I was told you were going to do it by regulation.

**Mr Cooper:** No, what we were saying is it could be done by regulation—

**Mr Mahoney:** Well, I think that's probably how you'd better do it.

**Mr Cooper:** —if we don't get unanimous consent to keep it in the bill, which would facilitate it for everybody concerned, because then it would all be in one location in the bill.

**Mr Hope:** That side always asks not to have things dealt with in regulations but out in the public and out in the open, and now you're—

**Mr Mahoney:** If you guys would get it right the first time, there wouldn't be a problem.

**Mr Hope:** Am I hearing the member opposite now telling us to put stuff in regulations so they're not being put forward?

**Mr Mahoney:** It wouldn't be a problem. We're now in the public, Mr Chairman.

*Interjection.*

**The Acting Chair:** One at a time, please.

**Mrs Witmer:** Mr Waters, I will not give unanimous consent.

**The Acting Chair:** You do not have unanimous consent, Mr Cooper.

**Mr Hope:** I'm just curious, because it's open for debate, is Mr Mahoney telling the government now not to put stuff in the acts, in the legislation, but also now to use regulations to put clarifications in there? He was making comment and I just wanted his opinion when he's talking about this.

**Mr Mahoney:** Mr Chair—

**The Acting Chair:** The Chair has been more than—

**Mr Mahoney:** You have, but I've had a question asked of me specifically on the record. I'd like to respond.

**The Acting Chair:** Okay, you may respond, Mr Mahoney, and that's it.

**Mr Mahoney:** Since Mr Hope wants advice from me, I can appreciate that. What I'm telling you and the government is that you should withdraw the entire legislation, because you can't even get your amendments right.

**The Acting Chair:** Thank you, Mr Mahoney. We're moving on now. There's been enough discussion on this. Mr Cooper did not get his unanimous consent for number 22, so we'll move back to number 15, which is the government motion. Shall the government motion carry?

*Interjections.*

**The Acting Chair:** At 5 o'clock it was deemed that all the amendments had been put, and therefore we are now voting on each and every one. The government motion number 15 is what we're voting on.

All those in favour of the government motion number 15? All those opposed? Carried.

Number 16, government motion: All those in favour? Opposed? It's carried.

Number 17, government motion: All those in favour? Opposed? It's carried.

Number 18, government motion: All those in favour? Opposed? It's carried.

Number 19, government motion: All those in favour? Opposed? It's carried.

Number 20, government motion: All those in favour? Opposed? It's carried.

Number 21, government motion: All those in favour? All those opposed? It's carried.

Shall section 3, as amended, carry? It's carried.

Number 22 is out of order.

Number 23, a Liberal motion: Shall the Liberal motion 23 carry? All those in favour? Opposed? It's lost.

Shall section 5 carry? Carried.

Shall the title of the bill carry? Oh, I'm sorry, I've missed one.

Shall section 4 carry? Carried.

Now we'd better do it back over to make sure we have it in the right order.

Shall section 5 carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended? Carried.

That ends clause-by-clause of Bill 80. Therefore, we now stand adjourned until Wednesday.

**Interjection:** We meet Wednesday?

**The Acting Chair:** Yes, we do, at the beginning of orders of the day, organization over the intersession. Thank you very much for your attendance today. Enjoy late-night sittings.

The committee adjourned at 1714.









## CONTENTS

Monday 6 December 1993

**Labour Relations Amendment Act, 1993, Bill 80, *Mr Mackenzie* / **Loi de 1993 modifiant la Loi sur les relations de travail, projet de loi 80, *M. Mackenzie*** . . . . . R-651**

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chair / Président suppléant:** Waters, Daniel (Muskoka-Georgian Bay ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

**\*Pawcett, Joan M.** (Northumberland L)

Jordan, Leo (Lanark-Renfrew PC)

**\*Klopp, Paul** (Huron ND)

**\*Murdock, Sharon** (Sudbury ND)

Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

**\*Wilson, Gary** (Kingston and The Islands/Kingston et Les Îles ND)

Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Hope, Randy R. (Chatham-Kent ND) for Mr Wood

Jamison, Norm (Norfolk ND) for Mr Gary Wilson

Cleary, John C. (Cornwall L) for Mr Conway

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Offer

Sutherland, Kimble (Oxford ND) for Mr Huget

Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Turnbull

#### **Also taking part / Autres participants et participantes:**

Kormos, Peter (Welland-Thorold ND)

Ministry of Labour:

Cooper, Mike, parliamentary assistant to the minister

Kovacs, Jerry, legal counsel

Murdoch, Bill (Grey-Owen Sound PC)

**Clerk / Greffière:** Manikel, Tannis

#### **Staff / Personnel:**

Hopkins, Laura, legislative counsel

Richmond, Jerry, research officer, Legislative Research Service





R-29

R-29

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 8 December 1993

# Journal des débats (Hansard)

Mercredi 8 décembre 1993

## Standing committee on resources development

## Comité permanent du développement des ressources

## Organization

## Organisation



Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel



### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

Wednesday 8 December 1993

The committee met at 1550 in committee room 1.

## ORGANIZATION

**Clerk of the Committee (Ms Tannis Manikel):** In the absence of the Chair and Vice-Chair, we must elect an Acting Chair. Are there any nominations?

**Mr Paul Klopp (Huron):** I nominate Mr Waters.

**Clerk of the Committee:** Mr Klopp has nominated Mr Waters. Any further nominations? Seeing none, will Mr Waters assume the chair.

**The Acting Chair (Mr Daniel Waters):** Thank you, Madam Clerk. I think we only have one item on the agenda for today and that is, as a committee, what we will be doing in the intersession. It's my understanding that there are two private bills out there and it's also my understanding that the Quebec legislation will be coming to this committee, hopefully as of today.

**Mr Klopp:** Do you want to go ahead of me?

**Ms Sharon Murdock (Sudbury):** I just have a question to ask. What are the two private bills?

**The Acting Chair:** The private bills are Mr Owens's private bill and Mr Duignan's private bill, I believe. One deals with something on the Niagara Escarpment and the other one deals with employment standards and WCB. Mr Duignan's bill is An Act to amend the Environmental Protection Act in respect of the Niagara Escarpment and Mr Owens's bill is An Act to amend the Employment Standards Act and the Workmen's Compensation Act.

**Ms Murdock:** Workers'.

**The Acting Chair:** Workers', sorry. Thank you for the correction, Ms Murdock.

**Ms Murdock:** You're welcome.

**The Acting Chair:** Those are the two private bills and then there is the Quebec labour legislation, which will take precedence over both of those private bills. Discussion on time? Do we have a particular time that the committee wishes to meet?

**Mr Klopp:** If I could be of help, I would recommend that the subcommittee go through the issue of these very important topics and report back to the committee on what they'd like to recommend. Is that possible? I understand that's how it's normally done.

**The Acting Chair:** I'm in the chair, but I'll speak anyway. The problem I see with that is that, although we are all probably aware that the House will more than likely meet next week, your motion reads that the subcommittee will report back to the committee. If you want to leave it that the subcommittee can make the decision, then that's one thing, but if you want us to report back and the House doesn't sit, how are we going to do that?

**Mr Klopp:** I'll make a friendly amendment to that unless there's something else further here. My colleague seems to be hitting me over the head.

**Ms Murdock:** If I might make a motion.

**Mr Klopp:** What about my motion?

**Ms Murdock:** It would resolve your problem, Mr Klopp.

For the purpose of the standing committee public hearings over the winter recess, the Chair, in consultation with the subcommittee on business and the full standing committee, time permitting, shall have the authority to make all arrangements necessary for the orderly consideration of all matters referred to the standing committee.

**The Acting Chair:** That is your motion, Ms Murdock. Any discussion on the motion? Seeing none, all those in favour of the motion? Opposed, if any? Seeing no one opposed, the motion carries.

**Ms Murdock:** Also in keeping with the subcommittee, I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof to consider and report to the committee on the business of the committee; that substitution be permitted on the subcommittee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee be composed of the following members: Mr Huget as Chair, Mr Cooper, Mr Offer, Mr Turnbull; and that any member may designate a substitute member on the subcommittee who is of the same recognized party.

**The Acting Chair:** Any discussion on Ms Murdock's second motion? No discussion on her second motion? All those in favour of that motion? Opposed, if any? The motion is carried. Is there any other business that anyone wishes to bring before the committee?

**Ms Murdock:** Did we want to discuss at all, just among those of us who are regular members on this committee, time frames so our subcommittee knows or are we going to just tell our representatives on the subcommittee what we would like?

**The Acting Chair:** As Acting Chair, I am in your hands. If you wish to take a moment and try to give some preliminary direction to the subcommittee, I'm more than willing to sit here and entertain that.

After hearing some discussion across the floor here unofficially, I get the feeling that we are going to leave this in the hands of our very capable subcommittee to come up and not only meet the needs of the committee but meet our time frames. I would suggest that we leave it with them.

Anything else on the agenda? Hearing no other business being brought forward to committee, I would suggest that the committee stands adjourned until the call of the Chair. Thank you very much for your attendance.

The committee adjourned at 1557.



## CONTENTS

Wednesday 8 December 1993

Organization ..... R-665

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Huget, Bob (Sarnia ND)

**\*Acting Chair / Président suppléant:** Waters, Daniel (Muskoka-Georgian Bay ND)

**Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

\*Fawcett, Joan M. (Northumberland L)

\*Jordan, Leo (Lanark-Renfrew PC)

\*Klopp, Paul (Huron ND)

\*Murdock, Sharon (Sudbury ND)

\*Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)

\*Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Sutherland, Kimble (Oxford ND) for Mr Huget

**Clerk / Greffière:** Manikel, Tannis



**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Monday 11 April 1994

**Journal  
des débats  
(Hansard)**

Monday 11 avril 1994

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

Subcommittee report

Rapport de sous-comité

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. The reports were prepared by shorthand reporters who dictated their notes to typists. Copies of each Hansard on onion-skin paper were distributed only to party leaders, the cabinet and the legislative library. Formal printing and indexing began in 1947.

Today's debates are recorded on audio cassettes. A staff of 50 transcribes, edits, formats and indexes the reports on computer. About three hours after adjournment, the report of that day's House sitting is transmitted to the printer and to the parliamentary television channel for broadcast throughout the province.

A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal de débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Les comptes rendus ont été préparés par des reporters qui dictaient leurs notes en sténo à des dactylos. Les fascicules du Journal des débats, en papier pelure, n'ont été distribués qu'aux leaders des partis, au Conseil des ministres et à la bibliothèque législative. L'impression et l'indexation ont commencé en 1947.

Les débats d'aujourd'hui sont enregistrés sur bande. Le personnel de 50 fait la saisie, la révision, la mise en pages et l'indexation du Journal sur ordinateur. Trois heures environ après l'ajournement de la Chambre, le compte rendu de la séance est transmis à la maison d'impression et à la chaîne parlementaire pour être diffusé à travers la province.

Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.





## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Monday 11 April 1994

Monday 11 avril 1994

The committee met at 1726 in committee room 1.

## SUBCOMMITTEE REPORT

**The Chair (Mr Bob Huget):** If we could come to order. We'll wait for Mr Johnson.

"The subcommittee met this afternoon to discuss the organization of hearings on Bill 143. The subcommittee recommends the following:

"(1) The committee meet on Wednesday, April 13, from 3:30 pm (approximate) to 6 pm. The minister's opening statement and the opposition critics' opening statements will be limited to 20 minutes each including questions. The remaining portion of that time to 6 pm will be for the ministry staff technical briefing and questions by the committee.

"(2) Presentations will be limited to 20 minutes each.

"(3) The committee will meet in Ottawa on Friday, April 15, from 9 am until 12 noon and 1:30 pm to 6 pm and on Saturday, April 16, from 9 am to 1 pm.

"(4) The subcommittee agreed on the list of witnesses who had contacted the clerk by 3:30 pm today. This list of witnesses will be invited to appear in Ottawa. Any witnesses remaining on that list who cannot be accommodated in Ottawa will be invited to appear in Toronto on Monday, April 18.

"(5) The separate and public French-language school boards will also be invited to appear.

"(6) The clerk will advise all new callers that an oral presentation may not be possible and request a written submission.

"(7) The committee will request to meet in room 151 on Monday, April 18, 1994, only to hear any remaining witnesses.

"(8) The committee will meet for clause-by-clause consideration of the bill on Wednesday, April 20, from 10 am until 12 noon, and after routine proceedings to 6 pm in committee room 1.

"(9) The research office will prepare as complete as possible a summary of the oral submissions presented.

"(10) The committee will advertise in the Ottawa Citizen and Le Droit advising that written submissions may be submitted to the committee."

Do I have a motion to adopt the subcommittee's report? Mr Cooper?

**Mr Mike Cooper (Kitchener-Wilmot):** I'll move it so we can get to the discussion. So moved.

**Mr Bernard Grandmaître (Ottawa East):** Numbers 4 and 5: Can we make a commitment today that the two

school boards would be—well, they will be invited tomorrow morning, but to give them an opportunity to prepare themselves, why can't we agree today that they will appear before the committee on April 18?

**The Chair:** You're moving an amendment then to number 5, adding that the French-language school boards will be invited to appear on Monday, April 18?

**Mr Grandmaître:** Yes, sir.

**The Chair:** That's a motion then. Discussion?

**Mr Grandmaître:** It's assumed that it's in Toronto, Mr Chair?

**The Chair:** That's correct. Discussion?

**Mr Cooper:** I think what we're doing there is we're taking some flexibility away, because if we do get through the total list for Ottawa and there's still time left, it'd probably be more convenient for them to meet in Ottawa than come and give their presentation. To tie it down to the Monday seems a little unreasonable when they could possibly present in Ottawa, if we could make it through the list.

**Mr Grandmaître:** I did this to accommodate more people in Ottawa.

**Mr Hans Daigeler (Nepean):** If there's time available.

**Mr Grandmaître:** I know.

**The Chair:** Further discussion?

**Mr Daigeler:** Not on this particular amendment.

**The Chair:** If you don't mind, Mr Daigeler. Mr Johnson, in anticipation of your participation, I assume it is on Mr Grandmaître's amendment.

**Mr David Johnson (Don Mills):** Yes. While I appreciate what Mr Grandmaître is trying to accommodate, particularly the two French schools, I thought that, as Mr Cooper has indicated, during our discussions we were going to use some flexibility. If we could incorporate them in, either on Friday or Saturday, then we would do that, but if not, then certainly on the Monday, as his amendment indicates, we would fit them in then.

My suspicion is, if we just leave it the way it is, we can hopefully accommodate them while we're down there, and if not, that certainly there's flexibility to arrange them on the Monday, just with the way it is. Frankly, I think the way it is is probably adequate.

**The Chair:** Further discussion? None? All those in favour of Mr Grandmaître's amendment, please indicate. All those opposed? The amendment is lost.

**Mr Daigeler:** Frankly, in view of what the subcom-

mittee had to work with, I guess it came up with what's possible. I don't really think that the public is going to be overly excited to have essentially a day and a half, but seeing that we have to have clause-by-clause and then report back on the 25th, I guess the subcommittee had no choice but to put forward what it has.

In particular, I feel bad that the public, unless they've really followed things on the fourth page in the Ottawa Citizen, may not know that these hearings are going to take place and that they have an opportunity. It's going to be very difficult for them to still be part of the hearings on Friday and Saturday. Anyway, I guess these are the limitations when you have two weeks to do this work.

One question I did have is, did the subcommittee have any comments at all on the location of the hearings?

**The Chair:** No, not beyond Ottawa, Mr Daigeler, we have not. We're in the process of trying to get a location that's suitable.

**Mr Daigeler:** I'd just like to put on the record that I would hope that you look at the regional headquarters. I think that would be a good choice. They have, first of all, a good location. I had an opportunity to speak with representatives of the region on the weekend and they would make every effort to accommodate us.

**Mr Grandmaitre:** And they're in favour of the bill.

**Mr Daigeler:** The regional headquarters is kind of neutral ground, so I would suggest that. Normally the committees meet in the Delta Hotel, but—

**The Chair:** The issue that we're still trying to finalize is suitable accommodation that will not only allow ourselves and the staff to stay overnight but also to hold hearings during the day. We're in the process of trying to work that out.

**Mr Daigeler:** As I say, all of this could be done at the regional headquarters. I'm simply putting forward my wish that that be clearly investigated.

**The Chair:** And I trust they wouldn't mind if we sleep in the regional headquarters as well.

**Mr Daigeler:** I think you can sleep in any of the hotels within walking distance of regional headquarters.

**The Chair:** We'll take your suggestion under advisement. The clerk is following normal procedure in terms of arranging accommodation and meeting rooms.

**Mr Grandmaitre:** We pay enough taxes that we could sleep there.

**Mr David Johnson:** I was wondering, the Ottawa Sun, you didn't mention that in terms of the newspapers—the Citizen and Le Droit. Is the Sun not a paper you normally advertise in?

**The Chair:** The agency provided the names of the Ottawa Citizen and Le Droit.

**Mr David Johnson:** The who? The agency?

**The Chair:** Yes. We have an agency that we deal with in terms of advertising, whether it's with dailies or weeklies, and those were the two names that the agency put forward. Those are the only ones, we understood, according to the agency, that it recommended.

**Mr David Johnson:** Sounds like the FBI.

**Mr Daigeler:** Clearly it would have to be the Sun as well. There's just no question. With the community newspapers it's different because they don't publish every day, but certainly all dailies have to—

**The Chair:** If it's agreed by the committee that we include the Ottawa Sun, then we will do so by unanimous consent. Agreed? The Ottawa Sun will be contacted.

**Mr Cooper:** Just for correctness, in number 8 I think we should eliminate "to 6 pm," because of the order from the House where we have to finish up the clause-by-clause that day, the motion in the House. We'd have to eliminate the 6 pm, I believe.

**The Chair:** Mr Cooper has moved to delete "to 6 pm." Any further discussion? Those in favour of Mr Cooper's amendment please indicate. Those opposed? The amendment is carried.

Further discussion? I hear noise on that side of the room. Did somebody wish to address the Chair?

**Mr Randy R. Hope (Chatham-Kent):** What are you advertising? Because I was reading number 4 and it says the list is already done today.

**The Chair:** There's a standard advertising form, which I won't read into the record, but it's here. It identifies what Bill 143 is, the purpose of the bill etc, and gives the public the hearing dates that we'll be in Ottawa and also advises them they can submit written submissions to the committee clerk at the address that's indicated on the form by Tuesday, April 19, 1994.

**Mr Hope:** It's only written submissions?

**The Chair:** That's correct. Further discussion?

Mr Cooper has moved adoption of the subcommittee report. All those in favour please indicate.

**Mr Cooper:** As amended.

**The Chair:** As amended. All those opposed? The motion is carried.

We are then adjourned until Wednesday, April 13, at approximately 3:30 pm.

The committee adjourned at 1739.









## CONTENTS

Monday 11 April 1994

Subcommittee report ..... R-667

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Huget, Bob (Sarnia ND)
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)  
Conway, Sean G. (Renfrew North/-Nord L)
- \*Fawcett, Joan M. (Northumberland L)  
Jordan, Leo (Lanark-Renfrew PC)  
Klopp, Paul (Huron ND)  
Murdock, Sharon (Sudbury ND)  
Offer, Steven (Mississauga North/-Nord L)  
Turnbull, David (York Mills PC)
- \*Waters, Daniel (Muskoka-Georgian Bay ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)  
Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Daigeler, Hans (Nepean L) for Mr Conway  
Grandmaitre, Bernard (Ottawa East/-Est L) for Mr Offer  
Hayes, Pat (Essex-Kent ND) for Ms Murdock  
Hope, Randy R. (Chatham-Kent ND) for Mr Wood  
Johnson, David (Don Mills PC) for Mr Turnbull  
White, Drummond (Durham Centre ND) for Mr Klopp

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service





**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Wednesday 13 April 1994

**Journal  
des débats  
(Hansard)**

Mercredi 13 avril 1994

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

Regional Municipality of Ottawa-Carleton  
and French-Language School Boards  
Statute Law Amendment Act, 1994

Loi de 1994 modifiant des lois  
concernant la municipalité régionale  
d'Ottawa-Carleton et les conseils  
scolaires de langue française

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. The reports were prepared by shorthand reporters who dictated their notes to typists. Copies of each Hansard on onion-skin paper were distributed only to party leaders, the cabinet and the legislative library. Formal printing and indexing began in 1947.

Today's debates are recorded on audio cassettes. A staff of 50 transcribes, edits, formats and indexes the reports on computer. About three hours after adjournment, the report of that day's House sitting is transmitted to the printer and to the parliamentary television channel for broadcast throughout the province.

A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal de débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Les comptes rendus ont été préparés par des reporters qui dictaient leurs notes en sténo à des dactylos. Les fascicules du Journal des débats, en papier pelure, n'ont été distribués qu'aux leaders des partis, au Conseil des ministres et à la bibliothèque législative. L'impression et l'indexation ont commencé en 1947.

Les débats d'aujourd'hui sont enregistrés sur bande. Le personnel de 50 fait la saisie, la révision, la mise en pages et l'indexation du Journal sur ordinateur. Trois heures environ après l'ajournement de la Chambre, le compte rendu de la séance est transmis à la maison d'impression et à la chaîne parlementaire pour être diffusé à travers la province.

Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Wednesday 13 April 1994

Mercredi 13 avril 1994

The committee met at 1541 in committee room 1.  
REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
AND FRENCH-LANGUAGE SCHOOL BOARDS  
STATUTE LAW AMENDMENT ACT, 1994

LOI DE 1994 MODIFIANT DES LOIS  
CONCERNANT LA MUNICIPALITÉ RÉGIONALE  
D'OTTAWA-CARLETON ET LES CONSEILS  
SCOLAIRES DE LANGUE FRANÇAISE

Consideration of Bill 143, An Act to amend certain Acts related to The Regional Municipality of Ottawa-Carleton and to amend the Education Act in respect of French-Language School Boards / Projet de loi 143, Loi modifiant certaines lois relatives à la municipalité régionale d'Ottawa-Carleton et la Loi sur l'éducation en ce qui a trait aux conseils scolaires de langue française.

**The Chair (Mr Bob Huget):** I call the committee to order. I apologize for the delay in starting; it's 3:45. The first item on the agenda this afternoon as we consider Bill 143 is opening remarks from the Minister of Municipal Affairs. I'll turn the floor over to the minister.

**Hon Ed Philip (Minister of Municipal Affairs):** It's a pleasure to be here this afternoon and to introduce to the standing committee Bill 143, an act that will reform the regional government in Ottawa-Carleton.

My parliamentary assistant, Drummond White, is here and will be with you during the various hearings. As I mentioned to the Chair and to Mr Grandmaître and others, I have to be in another committee at 4:30. If I can get out of that other committee, I will drop back and be available to you again for the rest of the afternoon. Staff from our ministry and Doug Barnes, as well as staff from the Ministry of Education, are here and will brief you on the provisions of the bill and answer a lot of the technical questions some of you may have.

First of all, I'd like to review the thinking behind the bill's provisions and why we think the people of Ottawa-Carleton need this legislation. Among the main features of Bill 143 are: the direct election to regional council, to be in place in time for the 1994 civic elections; regional responsibility for policing under a regional police services board; a new role for regional council in acquiring land for economic development purposes.

During the consultation undertaken by Graeme Kirby and subsequently, the general public overwhelmingly supported the concept of direct election to regional council. However, one aspect of the legislation which has caused considerable comment in the area is that the local mayors will no longer sit on regional council. This is an area of disagreement which the mayors themselves have tried to resolve, and I acknowledge their efforts. Indeed,

I've met with them and discussed various options.

However, of utmost concern is the fact that this regional council is responsible for over \$1 billion a year in expenditures. Such a large financial commitment entitles taxpayers to a regional government which is directly accountable to them. There is a great disparity in the sizes of the 11 municipalities in the area, from the city of Ottawa with a population of over 300,000 to a village with just over 2,000 people.

I know comparisons have been made between Ottawa-Carleton and Metro Toronto, but there are significant differences. I'd like to talk about those differences. Ottawa-Carleton has almost twice the number of lower-tier municipalities, 11 rather than six. The range in the size of municipalities is much greater in Ottawa-Carleton than in Metro. In Ottawa-Carleton, the smallest unit is less than 1% of the population of the largest unit, whereas in Metro the smallest unit comprises 16% of the largest unit.

There are many more municipalities with a small portion of the region's population in Ottawa-Carleton than in Metro. In Ottawa-Carleton, more than half of the units each have a population of less than 18,000 people. This is less than 6% of the largest unit's population, the city of Ottawa. In Metro, only two of the six municipalities are significantly smaller than the largest unit. Because of this disparity and the number of mayors, it is difficult to achieve representation by population unless the mayors no longer sit on this body, and reflecting representation by population I believe is something we as members of the Legislature should all firmly support.

The decision to exclude the mayors from regional council has many supporters, including David Bartlett, the author of a previous study on the future of Ottawa-Carleton; Claude Bennett, former Progressive Conservative Minister of Municipal Affairs; the former and current chairs of the Ottawa-Carleton Board of Trade; the mayor and council of the city of Ottawa; the Ottawa Citizen; and the Federation of Ottawa-Carleton Citizens' Associations.

Another important feature of this bill, regional policing, which comes into effect, we expect, on January 1, 1995, is long overdue. Ottawa-Carleton, the second-largest regional municipality in the province, needs and deserves a more coordinated response to its policing needs. It is the only region without a regional police force. Regional responsibility for policing will also promote fairness, ensuring that the costs are fairly distributed across the tax base of the entire region and that all taxpayers contribute.



The bill calls for the establishment of a regional police planning committee, which is intended to begin work shortly on integrating the three local municipal police forces in Gloucester, Nepean and Ottawa. The date for the amalgamation of the three existing police forces is now on or by January 1, 1997. The provision of a 1997 deadline is to ensure that there is adequate planning time for this new force. Our government has recognized that the January 1, 1996, deadline on Bill 77 did not leave enough time for a smooth integration and is now providing a full two and a half years for this process.

I expect that on January 1, 1995, a regional police services board will be in place. This seven-member body will be composed of four provincial appointees, the regional chair and two other regional representatives. The regional representation will provide an opportunity for the new directly elected regional council to have an impact on the future direction of regional police services. In addition, the board will carry on the work of the planning committee.

The government has recently provided the regional municipality with a \$70,000 special assistance grant to assist in a study to determine the communication system needs of the regional police services established by this bill. This grant will provide assistance in the first stage of the amalgamation process, and other assistance will be provided once further costs are known. I believe this to be the fiscally responsible way to proceed. What is of great importance in this fiscal environment is that the bill will give the region an enhanced new role in economic development.

Specifically, the region will assume exclusive authority to acquire industrial, commercial and institutional lands for economic development purposes. The assignment of this authority to regional council is based on the recognition that Ottawa-Carleton is one economic community of interest.

As you know, this bill replaces Bill 77, which was introduced in the last session of the Legislature. It was reintroduced because we have made a number of additions to it. Some of these were necessary because the passage of the original was delayed. For instance, provisions have been added which will ensure that the 1994 municipal and school board elections run smoothly, and, because of this delay, we were able to add educational provisions to the bill.

1550

In his final report, Graeme Kirby recommended that a separate study be done on the region's school boards. As a result, the Bourns study was commissioned to examine the area's five school boards. Mr Bourns held several public meetings and met with the school boards during the course of his review. His recommendation with respect to the Ottawa-Carleton French-language school board has been added to this bill.

Specifically, Mr Bourns recommended that the public and separate sectors of the Ottawa-Carleton French-language boards be divided into two autonomous bodies. The bill clarifies the existing regulatory power to dissolve and create French-language school boards, and a few minor additions are being made to deal with the specific

circumstances of Ottawa-Carleton. What this bill does is eliminate the unnecessary extra layer of the combined board. There is local support for this, as any of you from Ottawa know.

There are provisions, to be dealt with by regulation, for the transfer of trustees, property, employees and assets and any other matters that may arise as a result of this change.

Ministry of Education and Training staff have met with officials of the boards and the representatives of the employee groups to discuss other concerns about how the transfer of employees should be dealt with. Ministry of Education and Training staff will continue to discuss these matters with the two groups during the development of the regulation.

I'm pleased to report to you that today the Minister of Education and Training, Dave Cooke, has announced an agreement which will secure equivalent funding for the Ottawa-Carleton French-language school board's public sector. The new funding formula will increase annual grants to the board, bringing it in line with the neighbouring public boards. The new funding formula applies retroactively and the funds generated will be used by the public sector to reduce its accumulated deficit. This agreement means that the public sector of the French-language board will now receive grants equivalent to those received by other public Ottawa-area boards. I'm pleased that we were able to settle this through negotiation rather than through the courts.

In addition to the agreement, the government-appointed supervisor and the public sector have agreed to a schedule for withdrawing the supervisor, providing the sector maintains a balanced budget and does not go into debt.

I'd be happy to supply the full statement of Minister Cooke to members of the committee.

The Ontario Municipal Board is being given authority to make changes to the electoral wards of school boards as a result of the changes to local municipal or regional wards.

Finally, the street vending provisions from the previous bill have been changed.

There has long been a perception in Ottawa-Carleton that the region is vastly overgoverned. Streamlining is urgently needed. The people of Ottawa-Carleton have waited a long time for this legislation and feel that the issue has been studied to death. In the past several years, there have been three separate studies on the future of regional government in this area, most recently the Kirby commission.

The time has come to act and to put the reforms in place in time for the 1994 civic elections. The delay of this legislation is already creating some difficulties for the region's clerks. Candidates for regional positions have also been inconvenienced by the delay in registration.

Voters at all levels of government are demanding less government, more streamlining and new ways of doing things. We were not elected merely to replicate exactly what has been done in the past.

This bill means progress, progress for the region and for the people of the region. It will give them a regional

government that is more accountable and it will provide them with a focus for future planning.

The changes brought about by this bill will not revolutionize life in Ottawa-Carleton, but they will provide a new way of governing and a better, more streamlined way of governing. I hope the committee will be conscious of this during the deliberations.

Later, as I said, after we've heard from the opposition parties, I'm going to ask Doug Barnes of the local government policy branch of my ministry to take you clause by clause through the bill. I thank you for your attention.

**The Chair:** The next two scheduled items are opening statements by both opposition critics. The minister has indicated he can be with us till 4:30. If we follow that schedule, he will likely not be able to hear both opposition parties' opening statements.

I'd ask the guidance of the committee. If there are questions for the minister from the opposition parties we'd proceed with those now until 4:30, and then we can move into opening statements. Is that agreed?

**Mr Bernard Grandmaître (Ottawa East):** Agreed.

**The Chair:** That's fine..

**Mr Chris Stockwell (Etobicoke West):** What was the timing beforehand? If the minister has to be out of here at 4:30, how in God's name were we ever going to get to—

**The Chair:** We'd agreed to start at 3:30. We were late in getting in, so it could probably have been accommodated.

**Mr Stockwell:** But even if it had been half an hour for each opposition party, that would have taken up the hour and—

**The Chair:** Twenty minutes.

**Mr Stockwell:** We still wouldn't have had time.

**The Chair:** What I'm offering now, to get around that issue, is to take the next half-hour for questions from all three parties, to be divided evenly until the minister has to leave, and then we'll revert back to the opening statements by the opposition parties. I asked if that was agreed, and that was agreed.

**Mr Stockwell:** You misunderstood my question. Did we ask the minister to be here only till 4:30?

**The Chair:** No. The minister has indicated that he has another committee meeting and will return at some other point. He made that very clear while you were in the room.

Questions, Mr Grandmaître? Ten minutes per caucus. That will take us through till 4:30, then you can proceed with your statements.

**Mr Grandmaître:** Very good. Mr Minister, the opposition has been criticizing your ministry and you, and you just proved again today that I don't think you were ready with the original bill, Bill 77, because you just made an announcement today concerning the French-language school board, a very important announcement, for the simple reason that we've been asking you these questions in the House about the school boards and the stewardship in the Ottawa-Carleton area. This stewardship

has been in place since 1991, and we realized you were under pressure to make some kind of settlement with them or go before the courts and have it resolved.

I haven't heard the Minister of Education and I haven't seen the press release saying that this has been resolved or is very close to being resolved. Can I ask you the content of this press release?

**Hon Mr Philip:** I said I'd be happy to supply you with all press releases; we can do that immediately, I'm sure. We have it here in both English and French, whichever you prefer. I believe Mr Cooke supplied it to you in your boxes, and that's the normal procedure. If you don't have it, though, we can give you extra copies.

**Mr Grandmaître:** I just asked my colleagues if they've received it, and nobody on this side of the House—how about the members on the other side of the House. Have you seen it? I guess the answer is no.

**Hon Mr Philip:** No, sir. The answer is that there are normal procedures that you as a minister, and other ministers, have traditionally followed in this House, that when a press release is made it is supplied to the members in their offices at the same time as to the gallery. I assume that Minister Cooke has done that. His staff is here and they may have some comment as to how that was handled. But surely it's more important to deal with the contents of this bill than to argue about when somebody received a press release or not.

**Mr Grandmaître:** Don't you think this important announcement should have been made in the House so that everybody would have learned about this exciting news? I think it is exciting news, because this has been ongoing since 1991. It would have been worthwhile to make a minister's statement in the House so that all of us in this room and everybody in Ottawa-Carleton would be relieved that you will not be forced to go to court to resolve your differences.

1600

Again it points out my earlier accusation in the House that your ministry wasn't ready, for the simple reason that Bill 77 didn't refer to the French-language school boards amendments. And now you come before this committee and you tell us, "Well, we were delayed." Mr Minister, this is unacceptable, unacceptable on my part to be criticized that way, because, after all, you are a majority government. You have the power. You've used that power in the past, 13 times in the last 12 months, to introduce a closure motion or time allocation.

Mr Minister, I want to go on record that maybe this legislation is needed in Ottawa-Carleton—I agree with you that Ottawa-Carleton needs some fine-tuning—but to accuse the opposition of delay tactics is unacceptable.

In talking about funding, you did—

**Hon Mr Philip:** May I respond to those questions then? It seems to me that there are two questions that the member has asked. One relates to—and I don't know if it's a question or a comment—that somehow this great news which he has to welcome but somehow put a damper on in terms of process—instead of welcoming it, he's concerned that somehow the announcement was made by Mr Cooke at 1 o'clock today.



It's the tradition of ministers to make announcements and to release to all members of the Legislature, at the same time as the announcement, copies of the release. My understanding is that that was done. If you have any further questions on it, you may want to ask questions of Mr Cooke in the House tomorrow on that.

With regard to process, let me say this: We wanted to deal with this bill before Christmas. There was no question about that. Our House leaders went time and again and asked that the opposition House leaders agree to the bill being called, and on each occasion the House leaders tried to delay the bill and said, "No, we will not agree to it being called now."

The final crunch came just before the Christmas recess, in which our House leader, Mr Brian Charlton, was informed by the opposition House leaders that were the bill called, the opposition would filibuster every other bill that was before the House. Now, to say that we could have used closure or time allocation a few days before Christmas instead of—

**Mr Robert Chiarelli (Ottawa West):** Or in September or in October.

**Hon Mr Philip:** Well, the interjection is, "By September or October." The fact is that it was you, sir, and other members of the opposition, particularly the Liberal Party, who asked that we not call the bill at that time but that we consult with the mayors because they had a series of proposals. We in fact did go through that consultation, and if we had not gone through that consultation, you would have been the first then to say that we were calling a bill prematurely and ignoring the consultation time which the mayors had asked for, as they wished to go back and bring back some alternate proposals.

**Mr Grandmaître:** The mayors did consult with you, you're absolutely right, but it took you four months to answer their letters. This is inexcusable.

**Hon Mr Philip:** I'm sorry, sir, but that is not factual. No, that is not true.

**Mr Grandmaître:** I'm sorry, it's my time and I think—

**Hon Mr Philip:** You made an accusation, sir, that is not true.

**Mr Grandmaître:** No, it's not an accusation. It's a statement.

**Hon Mr Philip:** We sent our staff up to Ottawa. We met with the—

**Mr Stockwell:** Come on, Mr Chair. He's made a dozen accusations; no one's interrupted him.

**Mr Grandmaître:** The minister is talking about tradition and also process. Well, there is a tradition that all ministers and ministries must respect the House and that major announcements are made in the House and not outside the House. That's a tradition. That's a respectful tradition.

**Hon Mr Philip:** It's certainly one that David Peterson never followed.

**Mr Grandmaître:** Mr Minister, I just went through your comments, your remarks, and there is nothing in your remarks about the school board arrangement in

Ottawa-Carleton. Even your remarks weren't ready today. They're not up to date. This is what I've been trying to tell you. You've been doing a patching job; that's what you've been doing. And, Mr Minister, I will not accept that kind of criticism from you or the ministry.

I think it's irresponsible to be before this committee and talk about such an important bill that will change local government and regional government in Ottawa-Carleton for years to come, and you come before us and you're not even prepared to put two and two together, like this bill says: Bill 143, An Act to amend certain Acts related to The Regional Municipality of Ottawa-Carleton and to amend the Education Act in respect of French-Language School Boards, and you just made a major announcement.

Mr Minister, I would be ashamed to be before a committee and say: "I'm sorry; I'm not ready. This has been going on for four years now but we're still not ready." It's a patch-up job, Mr Minister, and I will not accept this.

Going back to the mayors, I think the mayors wanted and still want to cooperate with you. They've met with you, and in fact you've challenged the mayors. You've said, "Look, come back with some options." I have your response. I have your letters. They date back to two months and three months and four months and you were in a rush to pass this legislation and you were accusing the opposition of delaying this legislation.

You were late. You were late in your correspondence. I think it's very unfair for you to be here and insult this committee or insult me by saying that we were using tactics that you didn't agree with or were unfair. I think you're being unfair, Mr Minister, to say these things and to accuse us of delay tactics.

**The Chair:** Mr Grandmaître, your time has expired. Do you wish to respond to that, Minister, and we'll move on to Mr Stockwell?

**Hon Mr Philip:** Yes, Mr Chairman.

**Mr Stockwell:** Thank you, Mr Chair—

**The Chair:** Hold it.

**Hon Mr Philip:** The normal response is that the minister—

**Mr Stockwell:** So this is not part of my time.

**Hon Mr Philip:** —the minister often will give a response at the end of a consultation process. This was an ongoing consultation process. We had numerous phone calls and indeed meetings with the various mayors. Indeed, my people from my political and ministry staff went to Ottawa and had consultations with them. It was an ongoing process, and for you to say that we have not consulted is simply not factual.

**Mr Grandmaître:** I didn't say that.

**The Chair:** Thank you. Mr Stockwell, a couple of minutes of your time, sir.

**Mr Stockwell:** Thank you. Question: There's some credibility gap with respect to some of the comments that you've put on the record in the past and what we're dealing with here today. One of the questions that is maybe not as burning as the others but certainly one that



kind of leads me to a sense of trying to manipulate the facts: You were on record very clearly that if you didn't get this Bill 77 by the end of December, nothing could be done and the next election would be problematic and you couldn't see it going through in time. What happened? Were you just kidding?

**Hon Mr Philip:** We said that it would be problematic. It has been problematic. It's created some difficulties for the clerks. We are trying to overcome that by getting this bill through at the present time.

**Mr Stockwell:** Yes, but you didn't use the word "problematic," though. I'll have to go back and get the actual quote, but you're quoted as saying, "Unless we get it by December 31, it can't be done." You were just kidding?

**Hon Mr Philip:** Do you have a quote there to that effect?

**Mr Stockwell:** I don't, but I wish I did bring—

**Hon Mr Philip:** No, I didn't think you did.

**Mr Stockwell:** So you're saying, Mr Minister, that you didn't say that?

**Hon Mr Philip:** I'm saying that my recollection is that I said it would be extremely problematic and extremely difficult.

**Mr Stockwell:** Okay. I'll be happy to look that up.

**Hon Mr Philip:** I also said, I believe, to the press and other people that there might be other legal questions that we would have to look into and that we did not have legal opinions at that time.

**Mr Stockwell:** Look, I'll be happy to look that up and we'll just see whose memory's in gear on that one.

Question: You made a big sale here about streamlining government. Explain to me how streamlining government consists of enlarging the number of school boards from five to six.

**Hon Mr Philip:** Enlarging the number of school boards from five to six? We are cutting three bodies down to two in this bill. You have three bodies. There is the Catholic, the public and the plenary. We're taking out the extra level.

**Mr Stockwell:** You're not creating two school boards out of one?

1610

**Hon Mr Philip:** We're creating two school boards out of three.

**Mr Hans Daigeler (Nepean):** That's not correct.

**Mr Stockwell:** You see, this is the dilemma: There seems to be a real difficulty here with credibility. You're telling me you didn't say something December 31. Now there's a real concern about credibility here, Mr Minister, and I'll leave my 10 minutes to allow your assistant to explain it if he wants, but as I understand it you're creating two out of one. Am I wrong?

**Mr Drummond White (Durham Centre):** Yes.

**Hon Mr Philip:** Yes.

**Mr Daigeler:** No, he's not wrong.

**Mr Grandmaître:** No.

**Mr Daigeler:** It's true.

**Mr Stockwell:** Okay, let's get that on the record as well through the Hansard that—

**Mr Grandmaître:** They become two independent school boards.

**Hon Mr Philip:** Yes. They become two independent school boards.

**Mr Stockwell:** Well, what the hell was the question? You're creating two out of one.

**Hon Mr Philip:** I gave that in my answer. That's what the hell the question is. Maybe if you don't understand the question, then at least try and understand the answer. You've got two separate boards. Before you had two plus a coordinating board. We're eliminating the coordinating board.

**Mr Stockwell:** A coordinating board.

**Mr Daigeler:** There's one board, two sectors, and a—

**The Chair:** Mr Daigeler, we're on Mr Stockwell's time.

**Mr Stockwell:** Oh, I don't mind. Any time you want to chime in and help the minister out, I don't mind.

Here's a good chart. Okay, let me put them on the record then for you, Mr Chair: Ottawa board of ed, Ottawa Catholic, Carleton separate school board, Carleton public board, French public and French Catholic. As I count that, slowly for the Minister, one, two, three, four, five, six; we've got six, and there were five. Now, most people would say, other than the minister, I suppose, that he's in fact creating more boards, but we'll leave that up to the memory of the bright, intellectual Minister of Municipal Affairs.

Question: We asked for your support letters, which you spoke about at great length about a month ago. How come we haven't received them?

**Hon Mr Philip:** It's under a freedom of information. I'm sure you know previous governments have said that correspondence is of a confidential nature and that you need to receive the permission of the person who has written the letters in order to release the letter.

**Mr Stockwell:** One fly in that ointment: All we've got is a bill. You've only sent us a bill. We haven't got the letters yet. So I assume that you've got approval to send them. Are you waiting for us to pay the bill before you send us the letters?

**Hon Mr Philip:** I think the technicalities of that under the freedom of information can be answered by the staff later.

**Mr Stockwell:** I'll give whatever time I have left to Mr Daigeler.

**Mr Daigeler:** Thank you. If it's not possible to give the names, which may be so, is it possible to give just straightforward numbers? I'm sure your ministry staff have made a count as to what correspondence was received. Can we know how many letters were received and how many were in favour of your project and how many were against?

**Hon Mr Philip:** We can probably release to you the numbers. Maybe you'd like to be specific as to what categories you put them into: form letters, what municipality they come from, whether they're pro or against,

whether they're neutral, whether subsequent letters to our responses come back and in fact change from being negative to pro. If we'd hear the categories, then we'd be happy to give you the numbers and work them up for you.

**Mr Daigeler:** I'd be quite satisfied with seeing what categories you established for guiding your own views. That's what I'm interested in, because you made the statements in the House that the people in Ottawa-Carleton can't wait for your reforms and I would like to see some evidence of that over and beyond what you stated just earlier and in the House, because what you referred to were clearly people who were from Ottawa, not from Ottawa-Carleton.

**Hon Mr Philip:** I'm sorry, I missed that last comment. What I said clearly was what?

**Mr Daigeler:** Clearly, the people you refer to as being in support of your initiatives were all from Ottawa.

**Hon Mr Philip:** That's not so.

**Mr Daigeler:** Sir, with respect, the Ottawa-Carleton Board of Trade does not represent the Nepean Chamber of Commerce, for example; does not represent the Gloucester Chamber of Commerce; does not represent the Kanata Chamber of Commerce. You may not know this, since you're not from the Ottawa-Carleton area, but I suggest to you that as Minister of Municipal Affairs you probably should know that.

I should also point out to you that the Federation of Ottawa-Carleton Citizens' Associations is an Ottawa organization. Why they call themselves Ottawa-Carleton I don't know. But this support that you quoted and that you refer to is Ottawa. So I'm just asking you, what else have you received, and what is the approximate distribution of those for and those against?

**Hon Mr Philip:** With respect, I've met with the Ottawa-Carleton Board of Trade in three different portfolios: as Minister of Transportation, more frequently as Minister of Industry, Trade and Technology and more lately, at least in telephone calls and so forth, on this matter. Indeed, at their various meetings I've met members from every municipality in that body, with perhaps the exception of one or two municipalities, the more rural municipalities.

My understanding of the second group that you mention is that they do have memberships throughout the Ottawa-Carleton area, but when they appear before you, you may want to ask them who they represent and where their membership comes from. They'd be happy to answer that question directly. I don't know who's been scheduled for the committee, but no doubt they will be appearing. Is the Ottawa-Carleton Board of Trade appearing? Are they on our list? In any case, I'm sure you can get that and in any case, you can ask that question.

**Mr Daigeler:** You're quite correct that we can ask that, but I'm asking you.

**Hon Mr Philip:** No doubt some of the members will also want to question the—

**Mr Daigeler:** I'm asking you what other evidence you have for the view that you've put on the record that the majority of the people in Ottawa-Carleton are in

favour of your reforms. That's what I'm asking, essentially.

**Hon Mr Philip:** My conversations with a large number of people in Ottawa-Carleton.

**Ms Sharon Murdock (Sudbury):** I'll have to state my uncertainty about this. Not being either from Ottawa or from Toronto, I haven't read the bill in detail, but I'm not understanding something that the opposition seems to be focusing upon and that's the announcement of the school board autonomy. I know from your remarks that due to the delay you've been able to add it to the bill, but I'm wondering how it relates in any way to the Ottawa-Carleton change and whether or not it facilitates the change, or what exactly it does.

**Hon Mr Philip:** The Ottawa-Carleton bill is a governance bill; it deals with the governance at a municipal level.

**Ms Murdock:** I understand.

**Hon Mr Philip:** In the Kirby commission, Graeme Kirby recommended, having completed his study, that he thought there was a need not just to look at the municipal governance but also the school board governance in this particular case. Therefore, the Minister of Education set up Mr Bourns to look at that. Mr Bourns reported back with a proposal that was supported by all of the trustees in both French-language school boards. Therefore, being a governance issue and having its origins in the original last study of governance of Ottawa-Carleton, it seemed a logical place to put the changes.

**Ms Murdock:** But the bill stands without this. It doesn't facilitate it in any way, does it?

**Mr Grandmaitre:** No.

**Hon Mr Philip:** Facilitate it in any way? What do you mean?

**Ms Murdock:** Bill 143 on the Ottawa-Carleton changes to the governance, the school portion doesn't facilitate the enactment—not the enactment, I don't mean the enactment, but it could be done separately is what I'm asking, I guess.

**Hon Mr Philip:** It could have been done separately, sure, but there was no need to do it separately since we had a consensus and it was a logical springing forward from the Kirby study. Indeed, the trustees in Ottawa-Carleton felt that the streamlining provisions which we have introduced in this were helpful to them.

**Ms Murdock:** Just for my edification here, the representation by population that you mentioned—I know I listened to the member opposite in the House in debate before Christmas about his concept of representation by population, but how is it going to be broken down, basically?

1620

**Hon Mr Philip:** The average representative will represent what, about 38,000? Is that the figure?

**Mr Grandmaitre:** It's 35.6.

**Hon Mr Philip:** It's 36,000, okay, so we'll split the difference; somewhere around 36,000.

**Mr Gary Wilson (Kingston and The Islands):** I'd like to pursue this issue of what you're planning to do

with the ward boundaries. Could you just go over that for us, what the bill allows the minister to be able to be involved in.

**Hon Mr Philip:** There's a whole process, including the involvement of the OMB, depending on whether you're talking about the education component. My staff are going to be here and they'll take you through that whole process, but it would take up the next 10 minutes then if I started going through it. I'd be happy to.

**Mr Gary Wilson:** I was interested in—

**Mr Stockwell:** Yes or no.

**Hon Mr Philip:** I do know. If you would like, then, for me to have an extra 10 minutes, I'd be happy to go through it piece by piece.

**Mr Stockwell:** Go ahead. See if I care.

**Mr Gary Wilson:** Actually, what I was interested in is the municipal part of it and whether this would be a model for other places as well. Are you planning to use what we're doing in 143 in other areas of the province?

**Hon Mr Philip:** We don't see any need at the present time for any similar type of legislation to the Ottawa-Carleton changes anywhere else in the province. There's no other legislation on the books, if that's what you're asking.

**The Chair:** Further government questions? None. There are approximately four minutes remaining until the minister has to leave, so we can use it on the opposition side, I'm sure.

**Mr David Johnson (Don Mills):** I'm sorry. I missed the minister's statement.

**Mr Grandmaître:** Don't be sorry.

**Mr David Johnson:** Don't be sorry? Okay. I am sorry, though.

I just wondered, and this question may have been asked or you may have addressed it in terms of the major issue—the major issue is the mayors, obviously, and the liaison with the local municipalities. I wondered where the inspiration for this came from. There's really no model in place today. Is this just something new that you thought would be a good idea to try or was it from the staff, that they thought it would be a good idea? Where did the inspiration come from?

**Hon Mr Philip:** The inspiration came from when we sat down and looked at the Ottawa-Carleton area, as I've indicated earlier. I appreciate the fact that because of other activities you missed my opening statement, but essentially we had the problem of representation by population. When we looked at how we could do that, Ottawa-Carleton was unique compared to any other jurisdiction.

For example, in Metro, which you're very familiar with, you're talking about municipalities that do not have that great range of population differences. Even in your own municipality, which you led so well as mayor, the ratio of that to the larger municipalities of North York or Toronto is not the same kind of ratio that you have in the 11 municipalities in Ottawa-Carleton.

In addition to that, if you look at the representation as a portion of the regional council, you see that in Ottawa-

Carleton you in fact have 11 mayors, which of course is not the case in Metropolitan Toronto, so it's one of both numbers and representation by population. Try as we did, and with various consultations with the mayors, we could not come up with a formula that was simple enough for the public to easily follow a council meeting and hold people accountable and still have that representation by population.

**Mr David Johnson:** There are obviously various issues, and many people would say that's one issue, but as we pointed out speaking in the House, if you look at the province of Ontario, I think the Finance minister's riding is about one quarter or less the size of our Finance critic's riding, being about 30,000 in terms of population vis-à-vis about 150,000, something of that sort. So it seemed that if we were being consistent in terms of rep by pop, then we'd have to look at not only municipal boundaries but provincial boundaries etc.

I realize that's not in the bill, but I've never seen any impetus out of the government to address that issue, so I thought there must have been something else behind it other than simply rep by pop, because that's really an exercise in arithmetic and it's one we're not concerned about here in the province of Ontario with the Ontario ridings, for example.

**Hon Mr Philip:** I don't accept your analogy. First of all, I'm sure you'll recognize that, as Minister of Municipal Affairs, there are some things I have some control over and other things that I have absolutely no control over, other than the same voice that you have in the Legislature. One of them is the way in which ridings are set up in the province.

Secondly, I think if you look at the example that you gave—and you could use another example. The member for Lake Nipigon is another example of a small population and one member, and indeed we have other members around who can talk about their own ridings. But if you look at the Treasurer's riding, I believe it's the size of a good many European countries and therefore it's one of logistics.

There's no part of the whole of all of the 11 municipalities—you could take all of the 11 municipalities of Ottawa-Carleton and put them into a corner of some of the members' ridings. I recall Jack Stokes, who never missed an opportunity to talk about Lake Nipigon and how it was the size of West Germany and how he would fly around with his sister, the flying nun, in order to campaign in various places.

It's one of logistics, and I don't think it's comparable. In this case we could do something about it. I think the problem that you point out is one that the Legislature will have to deal with. Indeed, we have processes for dealing with it, but it's a much more complicated and difficult issue because of the geography.

I want to thank the members. I will try and come back if I can extricate myself from the other committee. In the meantime, my very able parliamentary assistant I'm sure will be happy to work with you.

**The Chair:** Thank you, Minister. We'll revert now to opening statements by the opposition parties.



**Hon Mr Philip:** May I just add one last comment, which I didn't have a chance to make on the record, and I wanted to say, because I told him personally. I must say that I was impressed and appreciated the very professional way Mr Johnson presented his case in the House. I think that shows that I'm privileged to have somebody of that calibre as my opposition critic.

**The Chair:** Thank you, Minister. As I was saying, we'll revert back to opening statements by the opposition parties.

Mr Grandmaître, you have an opening statement. We've allowed up to 20 minutes per caucus. Before you get started, that will automatically mean that the briefing will be delayed by the equivalent amount of time.

**Mr Daigeler:** I think what is essentially going to be useful is briefing from the officials, but frankly I think the only comment I have I expressed in the House already, and I think we saw it again today, that the minister really—and I'm shocked by that—does not have an understanding of what the region of Ottawa-Carleton is all about. Clearly, when I ask him for evidence for the support that he has quoted, he is constantly referring to groups that represent the position of the city of Ottawa and that are based in Ottawa and represent the city of Ottawa.

I've never denied that he's correct in saying that these groups support his initiative. Yes, without question. But they do not represent the position, certainly, of Nepean and of the other municipalities, and he has certainly, because I have copies of it, received lots of correspondence from the appropriate bodies that represent the other municipalities. That's really what I find very frustrating and very disappointing, because this clearly is a matter that affects 11 municipalities and not just the city of Ottawa.

Really, my questions will be to the officials.

**The Chair:** Further comment? Mr Grandmaître.

**Mr Grandmaître:** No comments.

1630

**The Chair:** Mr Johnson.

**Mr David Johnson:** I haven't prepared any exact comments. I guess a lot of the comments I would make were the same ones that I made in the House.

There are a number of aspects to this bill. First, I guess I should say that I have no opposition to direct election. As a matter of fact, this recalls me back a few years ago—I'm just trying to recall how many now—but several years ago in Metropolitan Toronto we had a system of indirect election to the Metropolitan Toronto council, and I was one of the people who supported a direct election. I'm not so sure if I regret it today or not, but at that point I certainly did support a direct election.

I guess the theory here is that people who are getting elected should be accountable to the electorate directly. In the case of Metropolitan Toronto, the annual budget is about \$3.5 billion a year, one of the largest budgets, I guess, for a government in Canada, larger certainly than some of the provinces. The people in Metropolitan Toronto who are raising that kind of money should have some direct say in their council, so I've said that.

However, on the other side of the coin, I also strongly supported—and you may say I had a vested interest at that point, because I was one of the mayors—but I still supported the concept of the mayors being on the Metropolitan Toronto council as a liaison.

I think what the minister has said here today is certainly one factor, in that our history in Canada is, where possible, to try to promote representation by population. But you can see all sorts of variances from that.

On the federal level, how many seats does Prince Edward Island get? If you break down the population there, which is about the same size as my former municipality, East York, they're way overrepresented on the federal scene. But do people complain about that? No, that's a fact of our history. It seems to work. It's the Canadian way.

I raised the example here today of various ridings in Ontario, some of which are 30,000 people, some of which are up to almost 150,000 people now. The minister is correct; that's not his problem. I don't know whose problem it is, but there must be some other minister who has the responsibility for that. The point I'm making is that the minister is an important member in the cabinet and so to a large extent he's speaking for the cabinet, and I don't see any urgency to correct that problem.

Now, you may say some of the ridings are large in Ontario and therefore that's why it's done. I don't disagree entirely with that. But at the same time, I'm sure that the people in Ottawa would say that there are historical and valid reasons why we should be able to look at different representation situations than strictly by population, which we've done at the federal level, which we've done at the provincial level. Why can't we do that at the municipal level? We've certainly done it over many, many years in the Ottawa area. Why can't we carry on doing that? I fail to see what the answer is.

The minister himself in November, I guess it was, recognized that this was an issue by indicating that he would permit the mayors to be on the regional council with half a vote. But at least that's a recognition that the mayors should be on the regional council.

If you've gone that far, I simply ask the question, why not go a further step, at least when we're starting up this new direct election procedure in Ottawa-Carleton? Leave the mayors on. Let it get it sorted out. Let the municipalities work together, because beyond the rep-by-pop issue, there are other reasons for the mayors to be considered as members of the regional council. Certainly the liaison, the working relationship back and forth with Ottawa-Carleton to the local municipalities such as Nepean, Kanata and all of the municipalities is a sincere concern, and they will bring a service in that regard. I have to say I'm very concerned about what the future will be without that.

Certainly the city of Winnipeg tried that approach. They left the regional government distinct from the local government two or three decades ago. It didn't work. It was just one battle after another. Finally, I guess the provincial government threw up its hands and said: "This isn't going to work. These two governments are not working, the local governments with the regional government," and what they did was they implemented one uni-

city, one government. I suspect, and some people suspect as well, that's the way we're headed with the kind of structure of government that we've put in place.

I think we're going to perhaps hear some of those concerns when we go to Ottawa. I congratulate the government for at least allowing this to go to Ottawa. I think that's a healthy step. I just hope all of our ears are receptive to the message we're going to get on that issue.

I think we're also going to get concerns with regard to the levels of policing that will be required in the various municipalities. There certainly are different methods of funding. There are different levels of service that are existing today. There certainly is a message that's been conveyed to me that various people in various municipalities are satisfied. Nepean, for example. The people of Nepean are satisfied with their policing. They don't want to assume a more costly policing structure.

Here in Metropolitan Toronto, the net cost of police in the net budget of Metropolitan Toronto is about 40%. So about 40% of the money raised from the taxpayers of Metropolitan Toronto goes to policing at the regional council. It's a big cost.

The municipalities in the Ottawa-Carleton area are a little concerned that if we have one uniform police approach, the taxpayers could get hit with a severe cost. So let's hear those kinds of concerns and make sure we can address that. The same kind of concern is going to be expressed on sewers. It is a little unclear in the bill who has the authority to deal with the sewer system and where the costs are going to go.

There are going to be concerns and I'm just delighted we're going down to hear them. I hope we're prepared not only to hear them but to address them. I guess I'll leave my comments at that.

**The Chair:** We've allowed the balance of the day until 6 pm for ministry briefings. As you might have noticed on your schedule, there are Ministry of Municipal Affairs staff here as well as Ministry of Education and Training. What is the preference of the committee? Would you like both ministries to appear together or deal with them separately?

**Mr Daigeler:** I think Mr Grandmaître will probably have some questions to the Education officials.

**Mr David Johnson:** Why don't we have them both sit there?

**The Chair:** I think we could accommodate most of them.

**Mr David Johnson:** Bring them all up.

**The Chair:** All right, that's fine. Could we then ask the officials from the Ministry of Municipal Affairs and the Ministry of Education and Training to join us from the back there. We may have more people than microphones, but we'll try. Before we start, if you could identify yourselves please. Then we'll know who's dealing with whom.

**Mr Scott Gray:** Scott Gray from the legal services branch of the Ministry of Municipal Affairs.

**Mr Doug Barnes:** Doug Barnes from the municipal policy branch.

**Mr John Tomlinson:** John Tomlinson, Ministry of Education and Training, the legal services unit.

**Mr Daigeler:** One of the grave concerns of the city of Nepean which the minister hasn't touched upon at all relates to the loss of the municipal authority over ward boundaries. For Nepean this is a very significant matter that hasn't even been acknowledged by the minister.

The reason this is so significant for Nepean is twofold. First of all, the wards that you have put together are going in the opposite direction than the current wards. Essentially, after a long study, Nepean has established three municipal wards that go in a north-south direction, and the regional wards that are being set up go in an east-west direction. The wards that are currently in existence in Nepean frankly are very good. They've worked. They do reflect I think very well the traffic patterns, certain natural boundaries, how people fit together in Nepean, and the people are quite used to this.

With the establishment of the regional wards, this is all thrown overboard and it's all going east-west and making a very different picture, not only for the regional wards, but also for the local wards. That's the first difficulty.

**1640**

The second difficulty is that with these new wards, and there I'd like some clarification, we're going to have six strictly municipal councillors in order to accommodate the ward boundaries that are being set by the minister. So we're going to have, actually, more politicians in Nepean than before, substantially more. Right now we have six councillors in a city of 110,000 people and one mayor, which is seven, which is really very small, given the size of our municipality.

Under the new system we're going to have six local councillors, the mayor and then three regional councillors. I should say, by the way, for those who don't know, that in Nepean we've always directly elected regional councillors. They've served on the region and on local council, but they had to run city-wide as regional councillors. I certainly do agree that there has to be accountability and there has to be election.

My question is: What about the establishment of these wards? Why is the authority being taken away from the local council, in particular, to establish their own local wards and why is it that we're going to have more politicians in Nepean rather than fewer as put forward as an argument by the minister?

**Mr Barnes:** The current law in Ontario is that no municipality can establish its own ward structure. The current situation is that if a municipality wants to either establish a ward structure or change a ward structure, it's got to go through a process with the Ontario Municipal Board. It's got to go through a process of consultation, public meetings and so on.

In the creation of the regional ward structure and the fallout into local ward structures in all of the municipalities in Ottawa-Carleton, a process more extensive than that was handled by Commissioner Katherine Graham. Following that, draft proposals on ward structures, a local working committee and a final proposal by the minister was set out on October 19. In terms of the ward struc-



tures for the 1994 elections, the process which would normally be undertaken for a change in wards has been paralleled by the ministry.

Secondly, the legislation does provide that for future elections the normal process of applying to the Ontario Municipal Board will allow for that application to happen and local wards to be dealt with by the Ontario Municipal Board. There is provision in the legislation to establish certain relationships and criteria which the board would have to follow in dealing with that, simply to make the relationship between regional and local ward boundaries continue.

On the question about increasing or decreasing the number of local municipal politicians in Nepean: The numbers you have articulated are correct in terms of six local members, one mayor, making the current total number of seven; that is the council of Nepean. When you go through the numbers in Nepean now and again later, you still have seven locals but you end up with an additional three members who are directly elected within Nepean to go to the region.

However, the overall total number of municipal elected officials for the region of Ottawa-Carleton is currently 84, and the new number of total officials will be 84.

**The Vice-Chair (Mr Mike Cooper):** Mr Daigeler, it's my understanding that there is a brief technical presentation, which may clear up some of this before you get into asking the questions. If you could be brief so there is time for questions or if questions arise on a specific issue they bring up in the briefing, maybe we could proceed that way.

**Mr Daigeler:** What do you want to do now?

**The Vice-Chair:** Give them the chance to give a brief technical—

**Mr Barnes:** If I could, just as a matter of introduction, we have in attendance not only staff from the Ministry of Municipal Affairs, myself and Scott Gray, but we also have Linda Gray and Patricia Myatt; from the Ministry of Finance, the ministry which is responsible for enumeration, Ruth Cameron; from the Ministry of the Solicitor General, Mike Mitchell and Bart Carron; and of course John Tomlinson, here from the Ministry of Education.

What we had proposed to do in terms of presentations: Scott Gray is going to give an outline of how the bill is established and set up; I'm going to go through the parts that deal with reform in the municipal sector; and John Tomlinson is going to go through the parts that deal with the French-language school board.

**Mr David Johnson:** Do you have a copy of your—

**Mr Barnes:** We don't have a formal presentation.

**Mr Gray:** Some of the sections in any bill, if you just read them on their face, you say, "What the devil is that about?" My job basically is to go through the bill and look at the sections so when issues come up, "Here's where they are, here's where they're located," because sometimes some of the complementary amendments are other places in the bill and located in different places that aren't obvious to people looking at it.

The first section of the bill deals with the representa-

tion issue, direction elections and the creation of the local and regional wards. That's what you find in sections 1 and 2 of the bill, and that goes from page 1 of the bill through to page 7 of the bill. With a couple of minor exceptions that I'll point out, any time you hear any reference to the direct election or the issue of the mayors or how the wards are created, it's within sections 1 and 2 and pages 1 to 7 of the bill.

**Mr Grandmaitre:** We won't be dealing with the police issue, regional policing?

**Mr Gray:** Yes, it's in this bill, but not in that section; that's all I'm saying. The direct election, representation, is sections 1 and 2, which is pages 1 to 7 of this bill. That's all. I just wanted to have their location clearly out to you for all these provisions.

Section 3 of the bill is in the middle of page 7, and this is one of the those amendments you wouldn't know what it's about. It deals with the provision of homemaking services and day care. What this provision provides by repealing subsection (2) is that the region can provide those services, homemaking services and day care, without the consent of the area municipality. This is what is in existence in most regions, and that amendment to that subsection (2) removes the requirement for area municipality consent for them to provide day care and homemaking services.

Section 4: We're deleting some words. They simply have become superfluous ever since the region went to region-wide assessment. Since they've had the assessment update, those words are no longer needed and have simply been deleted from the act.

Section 5, which goes from pages 7 to 15: That's the core of the police amendment. This is what provides for the creation of the new regional police force, the dissolution of the existing forces and their ultimate amalgamation into a combined force by January 1, 1997. It also provides for the planning process leading up to the creation of the regional force. That goes from section 5 on page 7 right through to page 15.

Section 6 of the bill is near the top of page 15. John may speak to you in some greater detail about this, but these are the provisions made necessary to adjust the school board electoral areas and the school board trustees, the numbers between electoral areas. Because we're amending the municipal wards, the election wards are in fact based on the municipal wards so once we get the new municipal wards in place, assuming the bill does pass, we have to have a process to adjust the electoral areas for school board purposes. That's section 6 of the bill and it goes from the top of page 15 right through to the top of page 17.

1650

Section 7 of the bill, which is about midway down page 17—when you hear people talking about economic development powers for the region, here's what we're looking at. It's the new section 49.1 of the regional municipality act. So when people are talking about it, that's what they're referring to.

Section 8 of the bill, further down the page: These are two amendments that are really complementary to the



police amendments. The first relates to who passes licensing bylaws. Ordinarily, that's the commissions of cities. Now that we have a regional force, it's not going to be the commission of the region, it's going to be left at the city levels, except it will be council of the city. This is what normally has been done in other regions where they have regional police forces, to leave that licensing power at the city level.

Section 49.3, the second amendment in there: This is something the region felt was important. When they're taking over new functions such as policing, they want to be able to put in the tax bills—and that's sent out by the lower tiers, of course—an explanation of why the regional levy is changing. So they can put in there, "This levy is increased this year because we're now responsible for policing." It's to give them a chance to explain to the people receiving the tax bills their view of why the regional levy is changing or increasing.

Section 9 of the bill starts at the bottom of page 17 and deals with street vending. That's a power that the city of Ottawa presently has, and in Metro the city of Toronto has it. This is a power to license people to sell on the streets, and if they don't have a licence or if they're selling in inappropriate places, not the designated spaces, they can remove those vehicles from the streets.

As I say, the city of Ottawa has this power presently, and with the consent of the region it can exercise it on regional roads. This gives the power directly to the region, so the city will have its power on city roads and the region will have its power on regional roads.

You may notice in that, it does give authority for the region, if it wants to, to delegate its authority down to the area municipality, or to the city in this case, if it wants to perpetuate that, but if it wants to operate that as a regional function, it can. That goes over to the top of page 21 in the bill.

Sections 10, 11 and 12 are complementary amendments to the representation material, the direct elections in the wards, for instance.

Section 10: Simply, that section is being repealed and replaced. What that section does is say if the ministry is undertaking a review of the structure of some municipality, then the municipality and the board can't deal with an application to amend the wards. That's an existing power, but obviously it only relates to local wards because they only have local wards in Ottawa-Carleton. Now, with the advent of regional wards, that power has been amended so that power can be exercised with both applications for change in regional wards and local wards.

Section 11: These sections provide that certain subsections no longer apply to Ottawa-Carleton. Those are subsections that rely upon the fact that lower-tier members are sitting on the upper-tier council, and with the advent of directly elected council, those sections simply no longer apply.

Section 12: Once again, it's saying certain sections don't apply to Ottawa-Carleton and the new ones that are being added to this section relate to vacancy. In the past, because you had members sitting on both upper and

lower tier, if your lower-tier seat was vacant, automatically your upper-tier seat became vacant and vice versa. Now that you don't have people sitting on both bodies, those provisions simply are no longer needed.

Section 13, at the bottom of page 21, the second section from the bottom, gives minor additional powers to the chief administrative officer of Ottawa-Carleton. Like the heads of councils and heads of departments in municipalities, he or she is now going to be in the position of being a commissioner for taking oaths so he can sign affidavits. You can swear them out in front of him.

The other provision there: In all other regions there's a statutory provision that says the chief administrative officer is in charge for the proper functioning of the municipality, making sure the departments are working properly, and that section applies to all the regions. It doesn't apply to Ottawa-Carleton, even though that's exactly the function the CAO exercises. We're simply giving them exactly the same status as the CAO in all other regions.

Section 14 starts at the bottom of page 21. There are a series of sections, sections 14 to 20. They deal with sewage powers. They go from sections 14 to 20, which is over on page 24, and all these sections provide the region with greater power to regulate and manage the sewer system in Ottawa-Carleton.

As you probably know, in Ottawa-Carleton sewage responsibility is split between upper and lower tier. The main lines traditionally have been looked after by the region, and the local lines, the subdivision lines, are looked after by the local municipalities.

What this does is allow the region a greater degree of power to inspect and regulate and control the total sewage system in Ottawa-Carleton and not just its own system. They're obviously interconnected. All the local systems flow in with the regional systems so it was felt there was a need for greater coordination there. That takes us down to section 20 on page 24.

Section 21 just says, "Section 101 of the act is repealed." That's simply a complementary amendment to the police powers. There are certain minor provisions that apply to all regional police forces—that's in the regional municipality act—and section 101 said these don't apply to Ottawa-Carleton because they don't have a regional force. Now that they do have a regional force, these provisions will now start to apply.

Section 22: Once again, John Tomlinson will speak to these to some extent, but these provisions are the minor amendments that the minister spoke of to the existing power. There's an existing power to dissolve and create French-language boards at the present time, and these are the amendments that deal with the peculiarities of the Ottawa-Carleton situation.

Section 23 is once again a complementary amendment to the election material, and this recognizes the fact that—nowhere else in the province does the regional clerk have any role in elections—we're giving the regional clerk a role of receiving the registrations, receiving the nominations, announcing the results of the election for the directly elected regional council.

Section 24: It's the education provision again. These are the amendments that would come into force in the event a regulation is passed to take the three-body board and convert it into two independent boards. This basically repeals the majority of the bill that set up that three-sector board that's presently in place. Obviously, it wouldn't be needed any more if we don't have the three-sector board.

Section 25, at the bottom of page 26, is repealing one subsection of the Police Services Act. That's the section that says it's the lower-tier municipalities in Ottawa-Carleton that are responsible for policing and not the region. With this amendment, if you remove that provision, the effect is it's no longer the lower tier, it's now the region that will be responsible for policing under the Police Services Act.

Section 26, at the top of the last page: This is the provision in the Ottawa-Carleton private bill that allows them to exercise the street vending regulation power on regional roads. Now that the region has its own power, that's no longer required.

1700

The only other provision, section 27, that I should mention is this is the power that's required—because the election year is already in progress, there was a need to adjust or modify the election process to take into account that instead of January 1, this new ward structure isn't going to be in place until some time later in the year and this will allow the minister, by order, to provide transition provisions to smooth the operation of the 1994 elections.

I think that's about it. That's the basic outline of what each of the sections do in the bill.

**Mr Barnes:** I would like to go through some of the background and then what the provisions are in terms of different parts of this bill, the main thrust of the bill.

The first part deals obviously with the questions of representation and—

**Mr Grandmaître:** Mr Chair, I wonder if we need this? We've read Bill 143 a thousand times, I think. Couldn't we go into questions instead of having staff repeat what we already know?

**The Chair:** These people are here at the disposal of the committee and if you have specific requests from them and you want to move to that, that's fine. How much time have you anticipated taking and giving what is, I think, an overview?

**Mr Barnes:** Yes.

**The Chair:** How long do you think that will take you?

**Mr Barnes:** Five, 10 minutes.

**The Chair:** I think it would be appropriate if you concluded giving this overview and then we can move into questions.

**Mr White:** Mr Tomlinson also wanted to speak about the French-language issue.

**Mr Grandmaître:** What we're doing now, Mr Chair, is simply repeating ourselves. I think we've all read the bill and I can understand staff being willing to explain to us what's in the bill. I think we all know what's in the

bill. Could we proceed to questions from the experts?

**Mr David Johnson:** I would certainly be agreeable to going the route suggested.

**Mr Daniel Waters (Muskoka-Georgian Bay):** Going through the last one, I picked up a couple of things that I'd like to ask a couple of questions on. I'm not so sure that indeed it is a useless exercise, but I'm not sure at this point that it isn't. If there are more of these questions that are going to pop into my mind as we go through this, I'd probably like the briefing. How long is it going to take, this technical briefing?

**Ms Murdock:** He said five to 10 minutes.

**Mr Waters:** Five to 10 minutes? I don't see that as a waste of our time limit. Get on with it.

**Mr Daigeler:** We've only till 6 o'clock.

**The Chair:** Is it agreed? I prefer to do this by unanimous consent rather than get into voting on this type of an issue. Do we agree on continuing for the next few minutes on concluding the technical briefing and then moving into questions?

**Mr David Johnson:** I have to say, in all truthfulness, that I know what's in each one of these sections. I'm sure it was an excellent presentation, but my mind couldn't focus on it because it's just stating the obvious and this gentleman is going to do the same thing.

**The Chair:** Mr Johnson, with the feedback you've just provided to the people from the ministry, that should help tailor their overviews and perhaps they'll be briefer than anticipated.

If I could ask you, sir, to conclude, whatever brief overview you would like, and then we'll move into questions.

**Mr Barnes:** Okay. The issue—

**Ms Murdock:** The pressure's on.

**Mr Barnes:** How do you make 10 down to three; right? Structure and accountability and the problems that we have in Ottawa-Carleton: We have to recognize, and I thought I should put some of this in for the members that are not from the Ottawa area, there are 11 local municipalities in Ottawa-Carleton. They range from the village of Rockcliffe Park with a population of about 2,500, there are four medium-sized townships of about 15,000, there's the city of Vanier at about 18,000, two larger cities and the city of Ottawa at over 300,000 population.

Under the current municipal structure, the mayors of each of those municipalities sit as regional councillors. The complete council of the city of Ottawa also sits as regional councillors. After that, in the townships it's exclusively the mayor that sits. The other cities in Ottawa-Carleton have a couple of members who also sit as regional council. That gives us currently a regional council of 30 members and a total number of local politicians of 84.

Under the proposals which have developed in terms of dealing with the structure of the regional council, we have now proposed 18 wards for regional councillors who would directly elected, plus a regional chair who would be elected at large.



Each ward is approximately 36,000 population. Those wards cross municipal boundaries, and that is the case in its application to all local municipalities. There are cross-boundary wards. All of the local wards also must be coterminous with the regional wards so that the electoral jurisdictions are the same.

The final number of local and regional politicians ends up being exactly as it is now.

In the determination of the wards, we have established that the wards would be set out by regulation. The minister put a draft of that material out in October of last year, and that describes the 18 regional wards and the local wards which come out of it.

We have made provision in the legislation—I made this in response to another answer—that is, the ward creation is normally an Ontario Municipal Board process. In future elections, that process is made available in this legislation. That process was subject to a number of provisions which will ensure the integrity of the relationship between local and regional wards.

The next major part in the legislation deals with policing. The policing in Ottawa-Carleton is currently provided in a variety of ways. There are three municipal forces: the cities of Ottawa, Nepean and Gloucester. The city of Ottawa force also provides a full policing service to the city of Vanier on contract. Rockcliffe Park is under contract with the Ontario Provincial Police, as is the city of Kanata. The five townships in the region all currently receive policing by the Ontario Provincial Police for free, not under contract.

What's proposed in the legislation is that the region will become responsible for policing services throughout the region. There is a provision in the Police Services Act which will allow differentials in services, but that choice is up to the regional police services board.

The legislation will allow the establishment of a regional police services board, which will have the authority to hire a chief of police and deputy chiefs in advance of the region taking over responsibility, which is January 1, 1995. In addition, the provisions that we have set up allow that body to provide for a plan for the new force and it also provides that the new force will first move an amalgamation of the three municipal forces.

We have made provision in there for the settlement of all of the assets and liabilities, for the transition of the employees, including, if there are takeovers in the future of the Ontario Provincial Police areas, transition between the OPP and the local forces.

We have made provision in this legislation which brings the Ottawa-Carleton legislation in line with other regions in terms of economic development. The region will have exclusive power for the acquisition of industrial land. That is available in other regions in Ontario.

The last major provision we have deals with sewer services. This was a request by the region, and the region at that time was constituted by representatives of all the local municipalities. The provisions we have give regulatory authority to the region to establish what is a regional service and what is a local service. That will be done in the official plan process. It also provides a greater

amount of flexibility in how the region charges back the cost of services. Now it must charge it back as part of the regional levy. It will be in a position to charge it back to the specific areas that benefit from a service.

Those are the major provisions.

**The Chair:** Thank you. Mr Tomlinson, do you have some brief comments?

**Mr Tomlinson:** Yes, three items. The first item: Perhaps I would make a brief comment on the discussion that occurred a number of moments ago about whether or not this French-language board is really one board or three boards or two boards or how many boards it is. The reason that discussion arose was because the member raising the question said, "How can you call this streamlining if you're taking one board and making it into two?"

1710

From a technical-legal point of view, the French-language board is one board, one legal entity. It consists of three parts: the Roman Catholic sector, which gives the Roman Catholic education; the public sector, which gives the public education; and the full board, which provides services that both sectors need, the main one being the caretakers in the schools.

Brian Bourns was retained by the Minister of Education and Training last May to do a report, and the report was to tell the minister whether or not there was any way of "streamlining" this French-language board; that was the word that was used. Mr Bourns came back and he basically said yes. He said, "You can do one of two things: You can either beef up the full board, give it more powers, have it do more, or you can get rid of it entirely and make the two sectors autonomous boards." He said, "That too will result in savings." In fact, I recommend the second because I think you are more likely to have success with it.

So from the point of view of practical efficiencies and substance, the one legal entity is really three, and the idea is that you're getting rid of the inefficient full board and making the two sectors autonomous.

The second thing I just wanted to comment on was section 6 of the bill. That's the part of the bill that has the provisions which relate to all school boards in Ottawa-Carleton and their electoral areas. As was explained, the need for this is that if this bill is passed, the Minister of Municipal Affairs will create new municipal wards. If that happens, the existing electoral areas used by the school boards can no longer be used, because their boundaries will no longer coincide with municipal ward boundaries. Therefore, we've put these provisions in here so the school boards can, in a rapid manner, re-establish new electoral areas if indeed they want them.

The last item is the provisions relating to the French-language board. This is section 22. I think the important thing on these is that this bill does not have provisions which dissolve the existing board, which create the two new boards; all it does is add to the existing power. The power already exists to dissolve the existing board and create the two new boards. Certain items we've put in as clarifications and additions because there are certain



specific problems in Ottawa-Carleton we have to deal with.

For example, if you look at subsection 22(6), that in effect says that in your regulation you may provide that the Municipal Affairs supervision of the public sector, which is now there, can continue and that the new public board will be under Municipal Affairs supervision. If we didn't have this provision in there, we couldn't do that in the regulation. I think that's all I have, Mr Chairman.

**The Chair:** Thank you. Questions?

**Mr Daigeler:** I want to get back, really, to the question that I had asked earlier when you invited us to immediately go to questions. I was told that the process for the establishment of wards is that you go to the OMB and it has to approve it. Just to be clear, for this election this is not the process that is being followed; it's the minister who is telling the municipalities what the wards are going to be. Is that correct?

**Mr Barnes:** That's correct. I think the question, as asked, was if we are taking an authority away from a municipality. A municipality has never had that authority.

**Mr Daigeler:** But it would have been through the OMB?

**Mr Barnes:** Yes.

**Mr Daigeler:** Could the city of Nepean, for example, say, "Well, we don't want and we don't need six local councillors"? Frankly, I take that position. We don't need six local councillors. We have managed well with the way we've had it, and it's saved us money. We don't want the province to give us even more costs. Can Nepean do that for this election that's coming up in November?

**Mr Barnes:** Not as the bill is currently written, no.

**Mr Daigeler:** You see, you wonder why Nepean is opposed.

**Mr Barnes:** I can't give you the exact answer on that right now, Mr Daigeler, but they may not be, even if this bill were not proposed—there are provisions that are in the Municipal Act and in the regional act about the number of councillors. I would have to check that detail as it currently exists. They may not be able to do that now in terms of reduction or increasing the size of council. They can change the ward boundaries in terms of moving it over a street or moving it back somewhere else by an application to the board, but I am not so sure that they can do that with the number. I can look into that provision.

In the Municipal Act for ward structures, in cities outside of counties, there are very specific provisions as to the number of representatives per ward and so on and how that would operate. So I would have to check that provision.

**Mr David Johnson:** There have been a number of letters written to the ministry on this matter. Would it be possible for me, as a member of this committee, to see the letters that are coming in, to see what people are saying about this bill?

**Mr Barnes:** I understand that the answer that our minister has given is that you have made that request as

a freedom of information request and the ministry has responded to that request already.

**Mr David Johnson:** Yes, and it's going to cost about \$3,000, I think. I mean, there's something ludicrous—

*Interjection.*

**Mr David Johnson:** No. So this has already been raised earlier, was it? There's something wrong. I can't believe this. This is the minister's directive, am I right, or is this normal practice?

**Mr Barnes:** If a member would like to see correspondence of a minister, the normal protocol is that a member will apply through freedom of information for that material.

**Mr David Johnson:** So that's for any information, in this case or—

**Mr Barnes:** That is my understanding, yes.

**Mr David Johnson:** This just blows my mind. Any information that comes in at the municipal level goes to the clerk. Not only do all the members get to see it if they want to see it, but it can be put on a public agenda and anybody in the public can see it. But here you have to do a freedom of information. It's unbelievable.

**Mr Barnes:** Would you like me to answer that question?

**Mr David Johnson:** Yes, please.

**Mr Barnes:** The information which does come in to a municipal clerk is a public piece of information. A piece of information which comes in to a head of council is not.

**Mr David Johnson:** So this information—well, it didn't come in to either. In this case, I guess it came in to the ministry.

**Mr Barnes:** Yes.

**Mr David Johnson:** So you consider that to be equivalent to a head of council, then?

**Mr Barnes:** No, I didn't make that relationship. You pointed out the relationship of the municipal clerk and I'm just saying that there are differences in terms of how correspondence is dealt with.

**Mr David Johnson:** I guess all I'm pointing out is that people are writing in on this and I think they want their thoughts known and I'd like to know what their thoughts are. Would I be able to come in and see it—not take it away, but, wherever the information is, just see it?

*Interjections.*

**Mr David Johnson:** The answer is no?

**Mr Barnes:** I guess there are a couple of things. Number one is that we not only have a freedom of information but we also have a protection of privacy component in that legislation, and I think the reason for having the protocol is that it allows the ministry to remove the names of the individuals on that correspondence.

**Mr David Johnson:** Because they may be saying something confidential about the Ottawa-Carleton region.

**Mr Barnes:** No, but it's a choice. That individual has written a private letter to a minister.

**Mr David Johnson:** Have I still got time? Can I

ask—the ministry staff support this bill, obviously, but just to hear you say that.

**Ms Murdock:** That's not a fair question, really.

**Mr Waters:** That's not relevant.

**Mr David Johnson:** Okay. What's behind it?

*Interjections.*

**Mr David Johnson:** Unless there's a point of order—  
if she has a point of order, make a point of order.

1720

**The Chair:** I'd ask the entire committee to come to order. This is not an auction; there are people who have the floor. Currently the floor belongs to Mr Johnson, who has made a request of ministry staff. If ministry staff would wish to respond, they will.

**Ms Murdock:** I did call a point of order, Mr Chair.

**The Chair:** I'll deal with your point of order, Ms Murdock.

**Ms Murdock:** Thank you very much. It is common that civil servants are not required to answer those kinds of questions, particularly from a political point of view.

**Mr David Johnson:** They're not required, but if they wish to—

**Ms Murdock:** They can answer political questions. Yes, they have input, but they do as they're directed.

**The Chair:** Ms Murdock, you do not have a point of order. Thank you very much for the information.

**Mr David Johnson:** Do you wish to answer or decline?

**Mr Barnes:** I think at this point I decline.

**Mr Waters:** I'd like to go back to the first gentleman, who did the briefing. I might be thick, but I'm looking at 49.2 on page 17 and it refers to, "The council of a city in the regional municipality of Ottawa-Carleton." Does that mean Kanata or Ottawa proper as individual cities?

**Mr Gray:** Yes, any municipality that has city status.

**Mr Waters:** So any one of those people may pass a bylaw, the police services, to authorize under the Municipal Act. You're saying in there that each individual city can pass bylaws. Then you go on, and this is where I have the problem—turn the page to section 56, where it says that the regional council now passes the bylaws in a lot of cases. In other words, the region of Ottawa-Carleton—let's say I represent Kanata and I don't want street vendors, but Ottawa does. I can get stuck with them anyway?

**Mr Gray:** What 49.2 is saying is that the powers of the police services board of a city to pass bylaws under the Municipal Act are very specific powers and certainly don't include the kind of powers in section 56, if for no other reason than it's not in the Municipal Act.

In the Municipal Act, the powers a police services board has is basically to pass licensing bylaws, and those are taxi licences, licences of pawnshops, pawnbrokers, a variety of things. Ordinarily a police services board in the city passes the bylaws if, I think the figure is, the city is over 100,000 people, and if it's under 100,000 people usually city council itself has to pass this. What this is saying is that now that we don't have a city board any

longer if this bill goes through, it will be up to the city itself.

**Mr Waters:** What about Rockcliffe, is it, the little community that isn't a city? It's a village, so they don't get equal status under 49.2?

**Mr Grandmaître:** They pay taxes but no vote.

**Mr Waters:** Mr Grandmaître has interjected there. Is that indeed the case?

**Mr Gray:** Taxes with no vote?

**Mr Grandmaître:** They won't have a vote on regional council.

**The Chair:** I ask you to address your responses to Mr Waters, and I ask committee members to refrain from interjecting. Proceed.

**Mr Gray:** To finish your point, villages and towns have the authority to pass these bylaws. It's only when you come to cities that once you get over a city of a certain size, that becomes a police commission bylaw. The only situation that needs to be dealt with is the city situation, because that's the only situation where it's split, depending on city size, between council and the police commission.

**Mr Waters:** And they will retain this right under this new act? They won't lose it, these smaller parts of the community?

**Mr Gray:** No. The power to pass licensing bylaws remains where it is now.

**Mr Waters:** I guess my other concern is when you start talking about street vendors. I might make up a part of a regional municipality—I'll look at my own, Muskoka. In some towns we may want it, in other communities we may not. I'm a little concerned that a group of people could dictate to one member of that group, "You're going to have street vendors, whether you like them or not."

**Mr Grandmaître:** Regional responsibility.

**Mr Waters:** I don't know why you would move that particular piece to a region, rather than leaving it within the rights of the individual communities that make up the region.

**Mr Gray:** This is a power for the region to control its roads, so anywhere regional roads are in the region, if they're part of the regional road system they can control street vendors. On local roads, this does not give the region the power to deal with that.

**Mr Waters:** On main arteries you can have street vendors, but on the smaller arteries that are very much the individual municipalities', you can or cannot. It depends; it's up to you.

**Mr Gray:** It's up to the local council, yes.

**Mr Waters:** I just wanted to understand that. I had a couple more.

**The Chair:** I'll move in rotation and come back to you.

**Ms Murdock:** I get a turn, don't I?

**The Chair:** We'll get to you.

**Mr Grandmaître:** Is there a regional road in Rockcliffe Park?

**Mr Barnes:** I don't know.

*Interjection.*

**Mr Grandmaître:** I was just referring to the vending amendments.

Mr Barnes, you have vast experience in municipal government.

**Ms Murdock:** When you get a compliment, beware.

**Mr Grandmaître:** No, I'm not like the minister, complimenting—I wouldn't do that. I'll be circulating that comment in my riding; it's going to be part of my report.

My question is to Mr Barnes. Can you give me another example in Ontario, or Canada, that has a similar type of government?

**Mr Barnes:** In terms of having two tiers separately elected?

**Mr Grandmaître:** Well, especially excluding the mayors.

**Mr Barnes:** No. This is a different system than we currently have. There is a big distinction in terms of governance across the different provinces of Canada.

**Mr Grandmaître:** Is there a regional government in Ontario, in Canada, that excludes mayors?

**Mr Barnes:** No.

**Mr Grandmaître:** My next question: Did you dream this up? Why did you come up with this model of a government? The minister is gone. You can tell me. You do have 20 minutes.

*Interjection:* That wasn't a question.

**Mr Grandmaître:** Yes, it was.

**The Chair:** Did you wish to respond to that?

**Mr Barnes:** No.

**Mr Grandmaître:** Gee, I'm batting a thousand: I'm not getting any answers. I'm just trying for one answer.

**The Chair:** A quick supplementary, then I'll move to Mr Johnson, and we'll come back to you in rotation.

**Mr Grandmaître:** Mr Barnes, the new regional government in Ottawa-Carleton will have no board of control. Will it have an executive committee?

**Mr Barnes:** There is no restricting authority in terms of them having an executive committee, but there is no provision to give it board of control type of powers. The feeling, in terms of moving on the question of board of control or not, is that the small size of council makes it more open to simply not have board of control powers in Ottawa-Carleton.

**Mr Grandmaître:** But this new executive can draw up its own powers.

**Mr Barnes:** They can draw up their own rules within the provisions of the current legislation.

**Mr Grandmaître:** Like it takes a two-thirds majority in council to overturn the executive council?

**Mr Barnes:** No. That's an authority of a board of control.

**Mr Grandmaître:** Can't they give it to the executive committee? You don't refer to an executive committee; you say no board of control.

**Mr Barnes:** The provisions on a board of control are that a board of control can make a decision on certain matters and it requires a certain two-thirds majority of council to overturn that decision of a board of control. There is no board of control in this proposal.

**Mr Grandmaître:** But they will have an executive.

**Mr Barnes:** Right, but it will not have the authority of a board of control, so it will not be able to make decisions without the approval of council.

**Mr Grandmaître:** And they won't be able to use the two-thirds majority?

**Mr Barnes:** No. Council is what exercises the two-thirds majority to overturn a board of control, but since there's no board of control, there is no exercise of that power.

**Mr Gray:** They can have an executive committee, but that committee simply will make recommendations to council.

**Mr Barnes:** Like any other committee of council.

**Mr Grandmaître:** But that executive council in Ottawa-Carleton had that power.

**Mr Gray:** Yes.

**Mr Grandmaître:** A two-thirds majority of council could overturn.

**Mr Barnes:** Yes. That has been removed.

*Interjection:* Is that being overturned by this bill?

**Mr David Johnson:** I think there's some curiosity up and down this side of the table. It goes back to the question I asked the minister about what the inspiration was for this particular bill. Maybe my colleague to my right has asked that question too.

The Kirby report didn't recommend that the mayors for example be off the council; neither did the Bartlett report or the Graham report before that, if it was called the Graham report. At any rate, there is no other document preceding Bill 77, let's say, that we can lay our hands on that recommended the mayors be off the council.

Where was the first inspiration for this structure of government? Can the ministry staff tell us where it came from?

**Mr Barnes:** I guess the best way of answering that question, Mr Johnson, is that in terms of trying to deal with the issues of representation and accountability in Ottawa-Carleton and how you try to give each elector in Ottawa-Carleton the same kind of representation, you have to look at a number of options that deal with the current problems.

One option, obviously, which has been put on the table over the years is to take a look at restructuring the local municipalities. As an example, you might look at Rockcliffe Park, which is basically a hole in the doughnut of the city of Ottawa, becoming part of the city of Ottawa. You might look at some amalgamations of some of the townships and so on. By doing that kind of change, the range in population size of the lower-tier municipalities would be substantially narrowed and you could have had a two-tier council which would have had fair representation. That's an option as well.



There are other options you could look at. Another one that was looked at was just creating—

**Mr David Johnson:** In the first instance, you studied a number of options. Would you have presented a number of options to the minister, for example?

**Mr Barnes:** In terms of what was presented to the minister, I don't think that is a fair question that I can answer. All I can say is that the structure of government has lots of options.

**The Chair:** Mr Johnson, I would caution you that that type of questioning is unfair, and I would ask that you stick to the nuts and bolts of 143. The staff is prepared to answer those types of questions.

**Mr David Johnson:** I have no idea when I'm stepping on land mines and when I'm not. At the municipal level, these questions are answered; people are proud of what they did. I don't quite understand where the problem is, so I'm sure I'm going to tread on it again.

**Mr White:** Mr Johnson, you've always seemed an intelligent fellow. I don't think the minister should be forced to take back those compliments.

**Mr David Johnson:** Nobody is forced to do anything. I'm simply trying to find out where this came from in the first place. I don't know why that's so secretive. It blows my mind.

Then let me ask you this, and maybe this is a bad question too. Do the ministry staff have any vision? If I ask the Ministry of Housing about its vision for housing, I would think it would have some vision, and if I asked the Ministry of Transportation, I don't think they'd say: "You can't ask about our vision for transportation. We're not going to tell you anything about it. You'll have to wait and see till the policy statements come out."

Do you have any vision in terms of the structure for municipalities? The member across has said he's from Muskoka, and how this vending thing works in Muskoka may be quite different than in Ottawa, for example. Does the ministry recognize that there are differences in municipalities and that there should be different setups, or does the ministry staff think that regional government should be created some way? Can you tell us what your views are on that?

**Mr Barnes:** I don't think I can answer the "should" part of any of your questions. I can answer the fact that there is a variety of municipal governments in Ontario, and in different circumstances I think they're doing a very good job and they represent their people well.

**Ms Murdock:** First of all, to go back to—I can't remember who said it, but ward designations were suggested by Katherine somebody?

**Mr Barnes:** Graham.

**Ms Murdock:** Oh, I didn't realize. My question is in relation to this school board thing; I guess I'm really getting hung up on it. Is this going to set a precedent? I'm thinking of French-language boards in particular because I'm from Sudbury, my riding is Sudbury, and we have a very strong francophone population in the north. I'm wondering if this is going to set a precedent for other French-language boards or a separation of French-language boards.

**Mr Grandmaître:** Can I answer this?

**Mr Tomlinson:** I wish you would, Mr Grandmaître.

**Ms Murdock:** I truthfully don't understand the Ottawa-Carleton school board situation. Is it distinct?

**Mr Tomlinson:** The Ottawa situation is so unique. In Sudbury, you have what is general across the province or is the most general arrangement. Where there is a sufficient number of francophones you have one board, and it's, say, a public board, and you have a section which will be the French-language trustees and then you have the majority who are not French-language trustees.

**Ms Murdock:** Right, 17 and three.

**Mr Tomlinson:** But then you will also have a separate board and it could be the same way. This is unique in that you've got both the separate and the public French together on one board, with a full board in the middle, trying to do common things, which obviously isn't efficient, according to Mr Bourns. It's the case of an efficiency expert going down there and saying, "Look, you can make this thing more efficient if you get rid of that full board and make these two sectors, which are almost autonomous now, autonomous."

**Ms Murdock:** So you're saying no to my question, that it won't set a precedent for other boards in the province.

**Mr Grandmaître:** Maybe.

**Mr Tomlinson:** In my view, it doesn't set a precedent, no.

**Ms Murdock:** Okay. The second part: Eighteen wards plus a regional chair is the number of—well, I'll call them councillors for the sake of anything else. How is this separation going to affect the number of school board trustees, or will it? Will this act change the number of school board trustees? I don't know whether it will and I'm asking you whether it will.

**Mr Tomlinson:** No. It won't change the number of school board trustees to which any board is entitled. The most it would do—as you may know, right now a board looks at a table in the Education Act and looks at the number of its electors and their dependants and figures out how many trustees it's entitled to. Say, for example, they're entitled to 17. Then there are further provisions that say they can increase by one or two, if they wish, and then there's another provision that says they can decrease down to whatever they want, as long as it's still sufficient to carry on the duties of the board.

This bill still allows that scope that's there now generally and doesn't affect it. The boards are in no different position after this bill, in terms of their power to determine the number of trustees, than they were if this bill didn't go through.

1740

**Mr Daigeler:** I have two specific questions. Another big concern that the people of Nepean have and that the representatives of the city of Nepean have is that we might be stuck with the sewer upgrading bills for the city of Ottawa. Are there any provisions in this bill that will protect the citizens of Nepean from being stuck with the sewer upgrading bills for Ottawa?

**Mr Barnes:** The current situation is that any work which is done by the regional municipality of Ottawa-Carleton is charged generally to all ratepayers in the region. If the region does any work in the city of Ottawa, that goes on the regional levy applied to everybody in the region. That's the way it is now.

**Mr Daigeler:** So you're confirming the fears of the people of Nepean.

**Mr Barnes:** No, I'm saying that's the way it is now. This bill will allow the region to charge back to the city of Ottawa for works like that. In other words, we're giving them the power to charge back, which they don't have.

**Mr Daigeler:** Where is that?

**Mr Gray:** It's on page 24 of the bill, section 19, the new section 86.1 of the Regional Municipalities Act.

**Mr Daigeler:** Okay, thank you.

The second question is, the minister has made a lot of the fact that the region needs a regional police force. Are you aware of any significant policing problems in Ottawa-Carleton arising from the fact that we have a Nepean Police Service, an Ottawa Police and a Gloucester Police Service?

**Mr Barnes:** There are a number of different questions about policing. You raise one about whether the actual policing service has problems and there have certainly been newspaper accounts that that has happened over time. But I think you have to think about other questions in Ottawa-Carleton; that is, you have a region which is one economic unit and yet you parochialize who provides this service and who pays for it, and they aren't matched.

**Mr Daigeler:** They're not what?

**Mr Barnes:** They are not matched, the people who use it and the people who pay for it. You have communities in Ottawa-Carleton that don't pay anything for policing, so there's the question not only of the actual service, there's the question about paying for it. There's also a question about how you make decisions with regard to the governance of it.

**Mr Daigeler:** With regard to my specific question, and I'm aware of the other issues, perhaps this is for the Ministry of the Solicitor General to answer: You're not able to point out specific major problems in terms of providing the actual policing services due to the lack of a regional police force in Ottawa-Carleton.

**Mr Barnes:** No, but we do have two commissioners who recommended that policing become a regional service.

**Mr David Johnson:** Just to stay with the police for a moment, at one point I think there was some money on the table in terms of phasing in this new police structure. Is that money still there?

**Mr Barnes:** The minister has made a public commitment that there would be transitional funding available.

**Mr David Johnson:** Was there a specific amount?

**Mr Barnes:** There is not a specific amount, and for a very good reason: Until the actual costs are known there wouldn't be a specific amount, and the ministry, with the Solicitor General, has established a number of

working committees locally to try to establish what some of those costs will be.

**Mr David Johnson:** Any idea if that money would be available to the region, or would it be a portion back to the local municipalities? I guess it's probably to the region, is it, or what is it?

**Mr Barnes:** The region will be responsible for the police service and the bills.

**Mr David Johnson:** So that's where the transitional money will go.

**Mr Barnes:** Yes.

**Mr David Johnson:** Looking at page 23, section 17, subsection 84.1(2), the second one from the bottom, "Bylaws regulating works," it says, "The regional council of the regional municipality of Ottawa-Carleton may pass bylaws regulating the design, construction, operation and maintenance of works owned or operated by or on behalf of any person, including an area municipality or local board thereof." What sort of authority does that give to the regional council?

**Mr Gray:** Just take the words one at a time. They can set design standards. They say: "Here are the construction specifications. Here's the kind of fill you have to put under it to make sure it doesn't sag. Here's the type of materials you may have to use that meet certain—"

**Mr David Johnson:** If I'm interpreting what you're saying, does it pretty well allow the region to dictate to the area municipality? Mr Daigeler was concerned about costs, I guess, that area municipalities would incur, and somewhere on the next page it says that this may be assessed to the area municipality in question.

But it looks to me here as if the regional municipality, not only on regional works but on local sewers as well—sewers that may service a very small area, a very localized area—would have the authority to tell the local municipality how it must design that local sewer. Am I correct there?

**Mr Gray:** That's correct. That is one of the major thrusts of this bill, to give greater authority to the region to coordinate the total system, because functionally it's one system but we have divided responsibilities for parts of it.

**Mr David Johnson:** That must be unique in the annals of Ontario as well, I would assume. Is it? Certainly that's not true here in Metropolitan Toronto.

**Mr Gray:** No, out of the 10 regions, I think there are either three or four that have divided jurisdiction like Ottawa-Carleton.

**Mr David Johnson:** Three or four that have this?

**Mr Gray:** Yes, that have that. I could find out for you which ones.

**Mr David Johnson:** I'd appreciate knowing who they are. That would mean you may have a very small street, a cul-de-sac with a little sewer coming out of it in, I don't know, Nepean or Kanata or someplace, and the region would have the authority to tell Nepean or Kanata how it must design that sewer.

**Mr Gray:** Yes. It's worth noting in this regard that under the Ottawa-Carleton act as it presently stands, the



region can assume any portion of any local work forming part of an area municipality sewage system now. If they decide that little stub only makes sense being part of the regional system, they can make it part of the regional system.

**Mr David Johnson:** Under today's legislation.

**Mr Gray:** Yes.

**Mr David Johnson:** When we're talking about works, are we just talking about sewers or are we talking about water systems, roads, sidewalks? What are we talking about?

**Mr Gray:** "Work" is a defined term in the act. I'm sure I can find it for you if you want to take a second.

**Mr David Johnson:** Maybe you could just tell me if you can't find it there.

**Mr Gray:** "Work" means a sewer, sewer system, sewage works or treatment works, or a capital improvement of any of them."

**Mr David Johnson:** Sorry, I didn't hear the last part.

**Mr Gray:** "...a capital improvement of any of them." Some of those other terms, "sewer system" and "sewage works," are also defined. This is section 73 of the Regional Municipalities Act.

**Mr David Johnson:** Is that in here?

**Mr Gray:** No, it's not being amended so it wouldn't be reflected in here.

**Mr David Johnson:** It's somewhere else. So it doesn't include water systems then and it doesn't include roads.

**Mr Gray:** No.

**Mr David Johnson:** It just includes sewage. But it would include storm sewers or sanitary sewers, either one?

**Mr Gray:** Yes, both storm and sanitary.

**Mr Waters:** I have a couple of questions. We've been talking about policing. If there's one thing, as an outsider going into Ottawa, that's always confused me it is who has what jurisdiction over what. Is this going to resolve that? I see more cop cruisers and duplications. We've got the RCMP, the OPP and different municipalities. I never know which one to look out for, to be quite truthful. Is this going to resolve some of the—There has probably been a jurisdictional problem having all of this going on. Will this help with that?

**Mr Barnes:** Yes.

**Mr Grandmaitre:** That's why they've got photo-radar.

**Mr Waters:** I don't think we're going to do that on the streets but it's a thought—on your street then.

It will help, and in what way?

**Mr Barnes:** On the one hand the governance of policing for municipalities in Ottawa-Carleton will be resolved by one jurisdiction.

**Mr Waters:** No more RCMP too?

**Mr Barnes:** No, I said for municipal policing services.

**Mr Waters:** Okay.

**Mr Barnes:** From the people we've talked to and the discussions we've had, there's a significant level of cooperation between the RCMP and the local forces in Ottawa as it is. In fact, in terms of looking at the communication system for the new regional force, the RCMP is part of that team because they want to be part of it.

1750

**Mr Waters:** You brought up an interesting thing. I think in the minister's comments he talked about some money they're putting in place so they can do something to prepare for the communications thing. In my region we're having a major problem because—I've never understood what they mean by holes but I gather it's blank spots where they can't communicate. If you're going to have a regional police force, at the present time you would have a number of blank spots, and that means you're going to have to put in towers and different policing. Has there been any work done at all or is this \$7,000 just a kickoff on that, because the reality is you're looking at only a few months.

**Mr Barnes:** The legislation provides that the amalgamation of forces does not have to happen until January 1, 1997. That gives two and a half years' planning and other time frames to start the process.

**Mr Waters:** Things will go on as they presently exist even under the new act for up to 1997, for another couple of years. That's fine.

**Mr Barnes:** It will go on as the new police services board sets it out, yes.

**Mr Waters:** The other thing that has come to light as we move towards this in our local area, and therefore I always worry about it because the same thing will happen here, is the job loss to the OPP. If you don't contract out to the OPP or should you go the other route and contract everything out, either way there would be a surplus of officers, vehicles and equipment. Has there been any discussion at this point on how that's going to be worked through, such as job guarantees or the movement of equipment and personnel?

**Mr Barnes:** This piece of legislation deals with the employment of individuals in municipal forces. It deals with employment if there is either a movement to eliminate some OPP or to increase OPP, between both the provincial forces and the local forces, so there are employment provisions in there for carriage either way.

**Mr Waters:** While we're on the employment discussion, as we change the boundaries, and under this act, what about the rest of the municipal employees? Is there some form of guarantee that there will be job retention or something, or is there going to be a surplus? Quite honestly, I haven't had a lot of time to read through all the backgrounders you've provided us with.

**Mr Barnes:** There's regulatory authority for the minister to protect any change in staff or any other service, but in terms of the sewer adjustments which are here, in terms of the economic development adjustments, there should be no change.

**Mr Waters:** As I dealt with the last time we looked at changing anything, what about the power of the minister should one of the municipalities try to create a



sweetheart deal, as we termed it the last time, with their employees that guarantees them jobs for ever and exaggerated pay scales and that? Was that going to be covered in this act?

**Mr Barnes:** This piece of legislation, in terms of policing services, makes a number of provisions which prevent local police authorities making financial decisions regarding promotion, hiring, amount of remuneration.

**Mr Waters:** No, you misinterpreted what I'm getting at. This was not with policing; it was with municipal employees and it was their higher-paid employees, the top six or eight employees in a municipality that was being amalgamated with another. They decided to create a sweetheart deal where they would protect those people and they had an exaggerated wage rate over other employees to be joined with. I was just wondering if there's a protection there.

**Mr Barnes:** There are no employees of this status. Outside of policing, we don't expect any employee adjustment between the lower-tier and the upper-tier municipalities.

**Mr Grandmaitre:** The minister in his opening remarks pointed out that at the present time there exist three separate police forces in the Ottawa-Carleton area. Also, at the same time, we have four municipalities receiving free OPP policing. These municipalities are saying: "We will do it our way. We're not interested in a regional police force. We'll draw up a contract with the OPP and continue to be served by the OPP."

It's a rumour that two more municipalities intend to do the same; they intend to ask the OPP to provide them with police services. If, and I realize that there's a big if, let's say, there are only four municipalities left that agree to a regional police force. Will you create a regional police force for four municipalities? What will happen to the assets and liabilities of the three existing police forces?

**Mr Barnes:** I'm sorry, I'm not too sure where your question is coming at, because this piece of legislation gives the region the authority for policing, so the local municipalities will not be able to be in a position to say whether they want a municipal force or an OPP force or a contract with a municipal force.

**Mr Grandmaitre:** This is what the people in Ottawa-Carleton are saying now. I know of four townships that are saying, "We will continue to buy our services from the OPP."

**Mr Barnes:** No, this bill firmly puts the authority for policing at the regional level. The local municipality will have no say.

**Mr Grandmaitre:** So the four existing municipalities that are receiving free OPP will automatically—

**Mr Barnes:** But there are five townships.

**Mr Grandmaitre:** Is it five? I thought it was four.

**Mr Barnes:** Cumberland is free as well.

**Mr Grandmaitre:** You're right; that's five. They're eliminated automatically. When I say "eliminated," they will have to join in that regional police force. It will be imposed on them.

**Mr Barnes:** They will be participating in a regional force. The region may choose to continue the on-the-ground delivery, and with agreement with the OPP and the Solicitor General, the region may continue to have that area policed by the OPP, but that decision is up to the region.

**Mr Grandmaitre:** If these five townships continue to deal with the OPP—get me?—will it be feasible to create a regional police force for seven municipalities?

**Mr Barnes:** If those five townships are still policed by the OPP operationally and the rest is done by a single municipal force?

**Mr Grandmaitre:** A regional police force, not a single.

**Mr Barnes:** Then I guess the best way of answering that is that the organization, the structure, the type of service and so on will have to be determined in terms of the big area, and then the townships by the police services board, and that will have to be approved by the Ontario Civilian Commission on Police Services.

**Mr Grandmaitre:** And nothing has been established as yet. This study is ongoing, if I'm not mistaken.

**Mr Barnes:** That's correct, but the legislation ensures that there will be continuous police services in Ottawa-Carleton throughout, regardless of who provides it.

**Mr Grandmaitre:** Can you briefly tell me what will happen to the cities of Nepean and Gloucester and Ottawa? What will happen to the assets and liabilities of the police forces?

**Mr Barnes:** They will become the assets and liabilities of the regional police services board.

**Mr Grandmaitre:** In other words, if the city of Ottawa, for instance, has a debenture of \$60 million on its police building, the taxpayers in Ottawa-Carleton will now pay that bill for the city of Ottawa.

**Mr Barnes:** The region will acquire an asset and it will acquire the debt. Any debts will be paid for through a regional requisition, a regional levy.

**Mr Grandmaitre:** For instance, the city of Nepean will not owe a cent on its building; it's all paid for.

**Mr Barnes:** My understanding is that both the city of Ottawa and the city of Nepean have outstanding debt liabilities on their buildings.

**Mr Grandmaitre:** How about the city of Gloucester?

**Mr Barnes:** I understand they do not.

**Mr Grandmaitre:** They do not?

**Mr Barnes:** Do not. But on the assets and liabilities, as it relates to not only buildings but all the other aspects involved in policing, it is not uniform across the region. We have set up a system where we will do the evaluations and the arbitration and so on to sort out those problems, but it is not uniform by any means.

**Mr David Johnson:** Actually, that was my question. I'm looking at page 9, if I can just follow up. At the bottom of page 8, it clearly says that the region would assume the assets and liabilities of the various police departments; some will have assets and some will have assets and liabilities. But at the top of page 9 it says,

"The regional corporation shall pay to an area municipality before the due date all amounts of principal and interest due upon any liabilities assumed by the regional corporation under subsection (1)." What does that mean?

**Mr Barnes:** It means that the actual debenture will still have the name of the issuing municipality on it, so that municipality has to make the payment.

**Mr David Johnson:** The region pays the municipality; the municipality pays the debenture. Okay.

**The Chair:** I'd like to thank you for taking the time

to appear this afternoon and provide answers to some important questions and any other relevant information that you've provided to the committee. I appreciate that very much, as does the entire committee.

Just before we adjourn, I would ask the members of the subcommittee to stay behind for a couple of minutes to deal with an issue. We are adjourned until Friday in Ottawa.

The committee adjourned at 1801.

## CONTENTS

Wednesday 13 April 1994

**Regional Municipality of Ottawa-Carleton and French-language School Boards Statute Law Amendment Act, 1994, Bill 143, *Mr Philip* / *Loi de 1994 modifiant des lois concernant la municipalité régionale d'Ottawa-Carleton et les conseils scolaires de langue française*, projet de loi 143, *M. Philip* . . . . . R-669**

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Huget, Bob (Sarnia ND)
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)
  - Conway, Sean G. (Renfrew North/-Nord L)
  - Fawcett, Joan M. (Northumberland L)
  - Jordan, Leo (Lanark-Renfrew PC)
  - Klopp, Paul (Huron ND)
- \*Murdock, Sharon (Sudbury ND)
  - Offer, Steven (Mississauga North/-Nord L)
  - Turnbull, David (York Mills PC)
- \*Waters, Daniel (Muskoka-Georgian Bay ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
- \*Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Daigeler, Hans (Nepean L) for Mr Conway  
Grandmaitre, Bernard (Ottawa East/-Est L) for Mr Offer  
Johnson, David (Don Mills PC) for Mr Turnbull  
Stockwell, Chris (Etobicoke West/-Ouest PC) for Mr Jordan  
White, Drummond (Durham Centre ND) for Mr Klopp

#### **Also taking part / Autres participants et participantes:**

Chiarelli, Robert (Ottawa West/-Ouest L)  
Ministry of Municipal Affairs:

- Philip, Hon Ed, minister
- Barnes, Doug, director, local government policy branch
- Gray, Scott, solicitor
- White, Drummond, parliamentary assistant to the minister

Tomlinson, John, senior counsel, legislation branch, Ministry of Education and Training

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** McNaught, Andrew, research officer, Legislative Research Service





R-32

R-32

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

## Official Report of Debates (Hansard)

Friday 15 April 1994

## Journal des débats (Hansard)

Vendredi 15 avril 1994

### Standing committee on resources development

Regional Municipality of Ottawa-Carleton  
and French-Language School Boards  
Statute Law Amendment Act, 1994

### Comité permanent du développement des ressources

Loi de 1994 modifiant des lois  
concernant la municipalité régionale  
d'Ottawa-Carleton et les conseils  
scolaires de langue française

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

*50th anniversary*

**1944 – 1994**

*50<sup>e</sup> anniversaire*

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal de débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Friday 15 April 1994

Vendredi 15 avril 1994

The committee met at 0901 in the Radisson Hotel, Ottawa.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
AND FRENCH-LANGUAGE SCHOOL BOARDS  
STATUTE LAW AMENDMENT ACT, 1994

LOI DE 1994 MODIFIANT DES LOIS  
CONCERNANT LA MUNICIPALITÉ RÉGIONALE  
D'OTTAWA-CARLETON ET LES CONSEILS  
SCOLAIRES DE LANGUE FRANÇAISE

Consideration of Bill 143, An Act to amend certain Acts related to The Regional Municipality of Ottawa-Carleton and to amend the Education Act in respect of French-Language School Boards / Projet de loi 143, Loi modifiant certaines lois relatives à la municipalité régionale d'Ottawa-Carleton et la Loi sur l'éducation en ce qui a trait aux conseils scolaires de langue française.

**The Chair (Mr Bob Huget):** Good morning. On behalf of the standing committee on resources development, we are very pleased to be here in Ottawa this morning to receive public presentations on Bill 143.

The order of business for this committee today and tomorrow is to hear presentations. We have a very full schedule. For the benefit of people in the audience, simultaneous French-language translation is available.

JACQUELIN HOLZMAN

**The Chair:** The first witness this morning is Jacqueline Holzman, the mayor of the city of Ottawa.

**Ms Jacqueline Holzman:** Thank you very much. Bienvenue à Ottawa; welcome to Ottawa. I, of course, am going to be speaking in favour of an early passage of Bill 143. I have to remind you that this bill only affects Ottawa-Carleton: the 11 municipalities, the regional government, over 80 local politicians, over 80 local school trustees, three municipal police forces plus the OPP and the RCMP, for a population of about 650,000. There are also five cities within the greenbelt, which is less than 500,000 people, and of course five police forces for that small area as well.

The problem predates—I'm not sure how long many of you have been at the provincial level, but it certainly predates the Bartlett report. The region requested a municipal review because we were concerned; we wanted the best governance and the best structure in this area in preparation for the 21st century. So a number of years ago, regional council voted to ask the then Minister of Municipal Affairs to conduct a review. However, the request went forward to request a review also of the boundary issues. Many people wanted a review of the two-tier system at the same time.

People have said there's no mandate for what is being put forward and no mandate for the city of Ottawa politicians to have taken the position that we have taken, which is in support of a change in the structure and the governance of the region. In 1988, we got our mandate because we were the only municipality to put a question on the ballot, and the question was, "Should we work towards one level of government within the urban area of the region?"

About 82% of the people who voted in Ottawa in the election of 1988 said yes, they wanted that, they wanted change, they wanted us to work towards one level of government within the urban part of the region. So therefore, Ottawa council has a mandate, a very clear mandate. As the mayor for the last almost three years and being on council since 1982, I have had no indication that the voters, citizens, the taxpayers of Ottawa have changed their position on this.

At the time when we were requesting the review which resulted in the Bartlett report and when the region asked for a review of the boundaries, when it came back to us, when the Bartlett terms of reference were announced, the Minister of Municipal Affairs from the previous government removed the boundary issue and there was no looking at boundaries and we were not to look at two tiers; it was to be within the two-tier system. In other words, we were not to examine the validity of a two-tier system or we were not going to be examining the boundaries. In my mind, that was the key that could have unlocked a problem that still faces this region and that hampers us as we move towards the 21st century.

Although the Bartlett report was completed and certain things were recommended, no action was taken. Mr Bartlett has recently said that he has changed his opinion on some of the issues. He now says that there should be no mayors on regional council.

The terms of reference for the Graham report, for the Kirby report and the Bartlett report were not broad enough to recommend the best ways to organize municipal government leading towards the 21st century.

Some of the problems that we've been facing and we faced for about eight hours, I think it was, at Wednesday's regional council: Why do we have to have two tiers of official plans? Why are there so many official plans? We spent many, many hours at the city of Ottawa preparing an official plan which was approved by the Ottawa city council, only to spend many more hours on Wednesday at regional council when region reviewed the city's official plan. So why do we need two levels of official plans? Is one large city the best form of govern-



ance for this region in the 21st century? Is one city within the greenbelt and two or three outside the greenbelt the best model for our area? Do we really need six school boards? Do we really need over 80 local politicians? And can we really have a regional council with no accountability at the regional level, no representation directly to the regional level, solely at the regional level?

Bill 143 is only one small step. You will hear, you have heard, and you may have read about me and a suggestion of collusion—"collusion" describing my role in this whole exercise. I said to my husband to look up in the dictionary and find out what does the word "collusion" mean. It means to act in secret in order to baffle, to trick someone, to plot, to conspire, to connive, to fraud; underhand, scheming.

This cannot possibly describe the role that I have played, since from the very beginning people have known where I have stood on this issue. I've been on regional council since 1982. My position has been documented, well known; I have voted on this issue many, many times, so the word "collusion" does not imply and does not relate to any of the things that I've been doing on this.

I am only here to tell you that you should not be swayed away from the fundamental issue of direct accountability at the regional level. You will hear that there are going to be problems with coordination, problems of liaison. Those kinds of issues are local issues and we can certainly address them. They shouldn't interfere with your decision-making.

You will also hear that we've run out of time and there's no way that we can get everything into place for the 1994 municipal elections. That's a red herring. There are ample competent staff available at both levels: at the provincial level to make the legislation happen and at the local level to make the elections happen. So that's a red herring as well.

You've also heard, and will be hearing, about the police and the police jurisdiction. You may know that within the greenbelt, which is a natural belt around the urban part of the region—less than 500,000 people—there are five different police forces operating: The Nepean Police Force operates there; the Gloucester Police Force operates in there; the Ottawa Police Force which also looks after Vanier; the OPP; the RCMP. We have just sufficient police forces. Is that the best way to operate our region and to protect our region and to provide for a safe region?

0910

Community-based policing service, the delivery of quality and consistent police service in Ottawa-Carleton, and lessening the duplication—who believes that crime and criminals stop at the Base Line Road before they leave Ottawa and enter into Nepean? Those are ludicrous ideas and we have far gone beyond that, particularly looking into the 21st century.

There are many issues that are unique to a capital city, but a capital city, when it comes to safety, spills over the geographic boundaries of the city of Ottawa. Such issues

as racism, such issues as all of our diplomatic corps in the ethnic communities that have come from other parts of the world, who have come to our area, this is not a problem that is held within a geographic boundary.

Why would we want to constrain those who are charged with the delivery of police services by continuing to impose upon them the issues of jurisdiction as a result of our present fragmented police force structure? This bill allows for the implementation of these concepts that entitle Ottawa-Carleton to have, like all other regions in Ontario, a regional police force.

There are other areas such as the acquisition of industrial and commercial lands, the whole question of sewage treatment and the sewer system, street vending is a minor one, the environment, garbage collection, recycling. These are regional issues; these should be looked at at the regional level.

The bill seeks to introduce an ability to provide consistent standards within the region, but that doesn't mean that every part of the region is going to get the same level of service. It's not the case in the city of Ottawa.

You're going to hear how all the outlying rural parts of the region are going to expect the same level of service as in the central core of the city of Ottawa. Well, that's just not the case in Ottawa.

I moved into an area in 1957 and I'm still in that area. We still don't have storm sewers. We still don't have properly paved streets. We don't have curbs, we don't have sidewalks, and we don't need them. So for anybody to say that everybody needs to have the same level of service is ludicrous. It is not the case now. You're going to hear that because it's going to serve the parochial interests of people who don't want change, who want to bury their heads in the sand and say that how we've been structured and governed for the last number of years is going to serve us into the year 2000. Well, it's just not the case.

You're going to hear about whether mayors should or should not be on regional council. The issue is not should the mayors be on regional council or whether they should not be on regional council. The issue is, we have too many mayors, we have too many municipalities, too much bureaucracy, too much red tape, too many empires, too much turf protection, too little concern for the taxpayers and for the best way to organize municipal government for this area, which is still less than 700,000 people. And because of all of the duplication, triplication, all of the "too manys" that I have just described, we are competing against ourselves. We are not in the best position to move this area forward as a viable area in Ontario and in Canada.

So in conclusion, I believe that Bill 143 is beneficial to the Ottawa-Carleton region. It doesn't go far enough, but it is one step. I urge the committee to recommend to the Legislature the prompt enactment of this piece of legislation so that the citizens of Ottawa and the politicians in Ottawa can start to heal some of the divisiveness that your delay has caused in this area. Had you made the decision last year when it could have been made, we could have begun to build bridges and to heal some of

the hurts that this whole process has caused. I urge you to a speedy decision.

**The Chair:** Thank you very much. Questions: about two minutes per caucus.

**Mr Robert Chiarelli (Ottawa West):** Very quickly, Mayor Holzman: You talked about too many empires. There are a lot of thoughtful people in the region who think that this legislation may be creating an empire that's too large. In particular, we heard the other day at the opening session of the committee that Ottawa-Carleton will be the only regional government without any mayors on it, for starters, so it'll be very exceptional from that point of view. We also know that there's the possibility that the regional councillors' roles will be defined as part-time and not full-time, and there's a strong movement among some people in the region to do that. We're now looking at a \$1-billion budget in Ottawa-Carleton and some people feel that the power under this legislation will be much too concentrated in the hands of the regional chair and the senior bureaucrats at the regional level. Do you have any concerns that that may occur?

**Ms Holzman:** I'll just start with your last point first. The \$1-billion budget, it's a large budget, but about 75% of it, I would think, is probably legislated. The whole of the social services budget is a legislated budget. You make the decisions on that; we implement it. A lot of it is the homes for the aged, a lot of it is implementation of provincial rules. So I don't think that's a factor at all.

As far as part-time, full-time, there is nobody now doing the job at the region full-time, except for the regionally elected chair, and therefore I don't think anybody needs to be there at a political level to operate as a full-time politician. We won't have time, but we could go into it.

As far as no mayors, we have too many mayors. If the initial position of the city of Ottawa was one city within the greenbelt and two or three cities outside of the greenbelt, a maximum of four cities—if you had four cities and four mayors, there's no reason why four mayors might not in the future be on a newly constructed government. But a newly constructed government doesn't necessarily mean the two tiers that we have now. And so I think you need to look at the whole issue, which is, what is the best way to govern and what is the best structure for Ottawa-Carleton? But that's not the decision today. That's something that maybe by the year 2000 someone will have the guts to look at.

**Mr David Johnson (Don Mills):** Your worship, I appreciate your frankness with regard to the one-tier system. I don't think I've heard the government indicate that this is a step towards a one-tier system, but you have clearly outlined that that's your objective and that you view this as being a small step. I think I would differ from you that it's a larger-than-small step towards a one-tier system.

Price Waterhouse was contracted by the municipalities, I think including your city, to do a study on a one-tier system. They reported that the cost of a one-tier system would increase the local municipal costs in the region by \$25 million to \$75 million, and there'd be \$12 million to

\$29 million in terms of implementation costs. They also say that under a one-tier system, the efficient, low-cost operational approach of the smaller municipalities would be lost. Since this was, I think, authorized by your government, what is your response to that?

**Ms Holzman:** I think the important thing to remember is, why did the Price Waterhouse study have the city of Ottawa part of it? It was commissioned before the city of Ottawa was involved with it and the terms of reference etc were agreed to. We decided to join in as opposed to being outside. We joined in so we could all get the same benefit of the statistics. You have to go back to the premise in the terms of reference, and I don't buy that. I think they were advised to come up with certain information, and I don't buy that.

I'm simply saying that the idea that every part of the region has to have the same level of service—it doesn't happen now in the city of Ottawa; I don't know why that would have to be.

As to the police services, many people would question the quality of policing services in other parts of the region, and that's for others to talk about. I can only tell you that we were part of it in order to show that we wanted to get the information that came out of it.

**Hon Evelyn Gigantes (Minister of Housing):** Mayor Holzman, you raised the question about the timing of this bill, and I know you don't follow the Legislature on a day-to-day basis. We did have a lot of legislation which had been backed up from a previous session, last fall, when we had hoped there would be agreement in the Legislature to move forward quickly on this legislation; in fact, we ended up having to have time allocation on bills such as the environmental rights bill and so on. I thought that would be of interest to you to know.

Overall, you talk to people in this region outside the city of Ottawa as well as within the city of Ottawa. Do you have a sense of how the public feels about this proposal?

**Ms Holzman:** I also talk to people outside the province and outside of Ottawa-Carleton and they laugh when they think that we're still so archaic, when we haven't gotten our act together to pull ourselves together. People from London have said the same thing to me: "How come you're still talking about 11 little municipalities? You've got to become an entity so you can become more competitive."

0920

Certainly people in the different walks of life I'm in contact with and who speak to me still don't understand why we have so much government, why we have over 160 local politicians and trustees. They're just mind-boggled when they realize that we're still arguing about the need for that. So we operate our little empires without listening too much to what the taxpayers are saying. They uniformly believe there's just too much government, too much bureaucracy, too much red tape and it's too costly for them.

**Hon Ms Gigantes:** Mr Chiarelli raised the question about whether this legislative proposal would concentrate power at the region and concentrate it in the office of the



regional chair. It seemed to me, and I'd like your comment, that in fact we have a concentration of power in the office of the regional chair when every other member of the regional council is not directly elected there.

**Ms Holzman:** When people are wearing two hats, as all members of regional council are now except for the regional chair, by virtue of no accountability and no responsibility on the part of the other 32 members of regional council, you create a situation where that's likely to happen.

But when you have one vote per councillor elected to be on regional council, including the chairman, you have to rely on the quality of the people who are elected, and if you elect the quality of the people who understand what's going on and take the time because it's where they are elected to, it's where they are accountable to, the taxpayers and the voters who elect them to regional council, there's no reason why, just as your level of government, good decisions can't be taken. Similarly, at the local level as well you have to rely on those who get elected.

**The Chair:** Thank you very much, Mayor Holzman. We appreciate your coming this morning and presenting your views.

#### NEPEAN POLICE SERVICES BOARD

**The Chair:** Next is the Nepean Police Services Board. Good morning and welcome. Identify yourselves and proceed with your presentation. You've been allocated 20 minutes and the committee would like a portion of that for questions and answers, so perhaps you could reserve 10 minutes for dialogue. We'd appreciate it.

**Ms Jean Peart:** My name is Jean Peart. I'm chair of the Nepean Police Services Board.

**Mr Dan McGuire:** My name is Dan McGuire. I'm a lawyer in the city and a former member of the Nepean police board.

**Mr Brian Granger:** My name is Brian Granger. I'm a resident of Nepean.

**Ms Peart:** Good morning, ladies and gentlemen. We will try to keep our comments brief. Mr Granger, as a concerned citizen in the area, has agreed to be here as a resource, but the two people who will actually be presenting will be Mr McGuire and myself.

I wish to express my appreciation for the opportunity to address this committee hearing. Today, I'm wearing two hats: one as chair of the Nepean Police Services Board and the other as a long-term resident of Nepean. Last October, the citizens of Nepean, in public hearings and in large numbers, by oral and written communications made it very clear that they were opposed to the regionalization of the police services in the Ottawa-Carleton region. The official position of the Nepean police service is also one of opposition.

Let me make it clear: We are not opposed to closer ties with our neighbouring services, with whom we already have very good relations. There are obvious areas where integrated teams would be an improvement, such as drug enforcement squads, tactical teams and criminal intelligence units. To that end, the chiefs of the three services have been developing strategies for the implementation of

amalgamation of some services. One reason for our opposition is a firm belief that a larger service flies in the face of the new thinking of what is an ideal police service. Community policing initiatives are aimed at bringing policing closer to the people and reducing the barriers that arise in a large bureaucracy.

It seems, therefore, a contradiction that with the commitment this government is known to have to community policing, as evidenced in the police act, regionalization is now being considered as the appropriate model for police services in the Ottawa-Carleton region. Although community policing would not be abandoned in a regional service, the local contact and local control will be lost.

A well-respected Canadian jurist, the Honourable René Marin, was commissioned initially by Nepean and Gloucester to do a review of police services in Ottawa-Carleton. The province of Ontario and some other municipalities joined in later. I must mention that Ottawa didn't. I commend this study to you, as in the short time available to me I am unable to touch many issues, but I wish to quote Justice Marin:

"This form of organization [regionalized police service] can weaken community involvement through distancing further the process of setting police goals and directions from local to regional level and in the process lessening the police accountability to the community it serves."

Since about 90% or more of police budgets is spent on salaries and benefits, there are no major economies to be realized from amalgamating the services. Most people agree that the cost of policing in the region will increase with regionalization. The startup funding will not offset the startup costs and the residents of the region will end up with increased taxes—some more so than others.

However, in spite of our opposition to regionalization, the Nepean police service recognizes that the government is committed to the idea, as evidenced by the introduction of not just one bill, Bill 77, but a second bill, Bill 143. We feel that if there are to be gains from regionalization, the process needs to be a more gradual one than is currently planned.

Bill 143 has a change from Bill 77 which addresses that issue to a small extent by deferring, by one year, the amalgamation date for the services, but by not deferring the startup date for a regional police services board the transition period is going to prove inadequate.

The proposed structure of regional government is very different from the current makeup. To give responsibility for a regional police service to a regional government that will almost certainly be preoccupied with working out the growing pains of restructuring is neither fair to that council or to the residents of Ottawa-Carleton and, ultimately, the citizens of Nepean.

The bill in its present format would have one regional board responsible for oversight of three separate services. Even for police services board members who have taken the available training in police governance, being responsible for one service requires a great deal of time and dedication. With three separate services reporting to one board, the demands will be that much greater and the



positive aspects of an amalgamation will surely give way to communication breakdowns, misunderstandings, jealousies, inefficiencies and all the ills that are now perceived as in need of fixing.

One of the disadvantages of being one of the first speakers before the committee is that after you have heard several other points of view, I will not have the opportunity to rebut those arguments. For that reason, I would like to re-emphasize that the Nepean police service feels that municipal policing is more compatible with community policing than regional policing would be. We also feel that while there could be gains from regionalization, if the process is too rapid even those gains could be lost.

Now Mr Dan McGuire, a former member of the board, will address cost issues. Thank you for your time.

0930

**Mr McGuire:** Good morning. As I indicated earlier, my name is Dan McGuire. I'm a lawyer. I practise in the city of Ottawa. In fact, I was born in the city of Ottawa, and there are very few of us left. I moved to Nepean 17 years ago and I am a resident there now and own a home there, but I still own two properties in the city of Ottawa and carry on my law firm practice there and pay taxes as business taxes in that capacity. I'm paying more taxes in the city of Ottawa than I am in the city of Nepean, and I give you—

**Mr Hans Daigeler (Nepean):** We'll have to change that, Dan.

**Mr McGuire:** You're trying to, with the reassessment. In any event, I tell you that by the way of background so you will see that I'm on both sides of the fence in regard to costs, which I intend to deal with. I am also a member of the Downtown Rideau Business Improvement Association, so I'm spending some taxpayers dollars in that respect. So I'm on all sides of the fence.

A number of years ago I was asked—I did not apply but was asked—to sit on the Nepean Police Commission as it then was. One of the reasons that made me want to accept that was because I live on the Ottawa River and I had a neighbour who had been living there for many years, built his own home, and he had to sell that home because he lost his job; the firm he was with went out of business. He took other employment and was able to support his family and everything was fine—except that he could not afford to pay the municipal taxes and had to sell his home for that reason.

I just thought that was awful. That was the main reason I went on the Nepean police board. I think you all know the salary you're paid there. At one point I complained because I said I was getting 12 cents an hour and I was going to go on strike if they didn't go to 13 cents. In any event, you don't go on there for the monetary rewards. I went there strictly to see if I could cut down the costs because I just thought it was awful, the way the taxes kept growing and making it more and more impossible for people to own homes.

I did a lot of work on that board and spent a lot of time studying the problems of policing. In fact, I was

involved in the world policing association and organizations all over the world, looking at costs and what the answers were to some of the crime problems—some very interesting things. I wish I had time to go into all of them you, but I can't. But one of the things I was convinced of is that we must turn more and more policing over to citizens. We've gone the full spectrum of citizens being involved initially, and then not being involved at all, dumping it all on the hired guns, the policemen we hire, and stepping out of the picture and taking no more responsibility.

It was my opinion and I think it's the world opinion now that that can no longer be. We can't afford to hire enough policemen to give us the kind of policing service we want. Therefore the community has to step in and take more and more responsibility for the policing in the community under the direction of the hired professionals, but we can't have enough bodies out there unless we as citizens are directly involved.

We put a plan into Nepean that in my opinion is a model plan for North America, if not for the world. We did it by stealing ideas from everyone else and then adding some of our own to the pot. We have a tremendous number of volunteers in Nepean now who do work that five or 10 years ago was done by a highly paid, highly costly police officer. We have things like house-breaking situations, car thefts, bicycle thefts, all the rest of that, being handled by volunteer civilians at no cost to the taxpayer. Well, not no cost: We have an office, so there is insignificant cost. But the dramatic reduction was fabulous for me to see. The plan went into effect and is now growing and the cost savings are fabulous.

There are numerous other cost savings we put into effect as a result of the information we were able to receive from all over the world. That platform has been laid and is progressing and improving in the city of Nepean. It's not only there, of course: Ottawa, to some degree, and Gloucester, to some degree, have done the same things. We've all been working towards this angle of getting the community involved in policing and being directly involved, which they have done.

We have moved towards centralization. When I was on the board we moved towards getting common meetings with the other police boards, and we have to a great extent centralized the drug branches, the emergency response team, the intelligence branch. That's hooked into Toronto with the computer setup there, and they're working towards having only one computer operated out of Ottawa; there still are three but they're amalgamated to a great degree.

I'm very concerned about amalgamation, very concerned. I don't think this matter has been properly studied by anyone. I have read the reports of the instant experts, and I shake my head. I didn't spend seven years doing nothing else but police work, but I spent a substantial amount of time involved in studying the issues, and I don't think they've been addressed.

I can't take time to go into all the problems I have with the amalgamation, but I'm just going to address two: first of all, the costs, and second, although Mme Peart has dealt with that to some degree, I'll touch for a moment

on the lost community involvement. Does anybody has a handle on the costs unified policing will result in? I've done a quick look at it. Let me give you some numbers. A new trunk radio system is now going in; there's a committee set up for that purpose and it's on the way. That's a cost of \$15 million. I grant you, it's not only for police, but the majority of the use is for police, though there are going to be some other uses for it.

To bring the computer record system into unity is going to cost at least \$4 million. I was involved with putting in the new computer systems in Nepean and I can assure you I have some knowledge of that. I promise you it's going to cost at least \$4 million.

Just to do the painting of the marked vehicles is going to cost over a quarter of a million dollars. To deal with the uniforms—to make a unified uniform, flashes, badges—is going to cost over \$550,000, according to my calculations, and I assure you I have been very conservative in my calculations.

The training cost to bring all officers on stream with one set of rules and regulations: They're all trained officers now, but each force has a slightly different way of doing things, and they're going to have to train those people so they're all doing things the same way. I don't think you can do that for under \$500,000. I calculated it out at 20 hours' training per officer, and that, in my opinion, is very minimal.

Then we have the difference in salaries. Gloucester and Nepean pay both their civilians and their uniformed officers substantially less than the Ottawa force. The Ottawa force, because it's larger, has stronger bargaining powers or whatever. In any event, that's the fact. The difference in those annual salaries is about \$1 million. Of course, you can't just look at it as \$1 million, because that's a continuing cost, so I capitalized that over 10 years and said you've got to look, for any budget purposes, at at least \$10 million.

At that point, we have \$33 million, most of which nobody seems to have considered yet. I go on from there.

Right now there are three satellite OPP stations. There is nothing in the legislation nor in anything I've been able to determine to say that the region is going to get these three stations. The province still owns them. That means the region is going to have to build three new satellite stations.

No one discusses these things. I can't believe that in the information I've been given no one seems to be addressing what the citizens of this region are really going to pay for this regionalization. Concepts are wonderful, but surely somebody who knows something about the police services has got to take the time to find out what the real costs are going to be. Again that's at least \$3 million.

If we replace the OPP officers who are within the region, as contemplated by the bill—and I appreciate that in some of those cases the province is paying policing where in other cases municipalities are paying, and there may be some unfairness; I don't want to address that now. The only thing I'm going to address with you is this: The cost to the citizens of the region of the city of

Ottawa is going to be \$7 million a year. Again, capitalize that for 10 years, because it's not a one-time cost, and you've got \$70 million.

Now, I haven't touched on all kinds of other things. Get right down to stationery, the cost of the structuring of the new administration—a lot of costs are going to be involved. Believe me, that's not going to be an easy task and someone is going to have to spend a lot of time, and that's cost, setting up that administration: Bell telephone systems, all the new equipment that is going to have to be bought there, vehicle registrations and on and on and on. There is no doubt in my mind that the amalgamation of these three forces is going to cost the citizens of the regional municipality over \$100 million and I just don't think anybody has addressed this with any measure of competency to deal with that aspect.

#### 0940

I've been involved in a lot of amalgamations and in every one of those cases we've had chartered accountants on the two companies we're going to amalgamate. In fact, in some cases we've had forensic accountants go in to try to fill gaps that the accountants are not able to foresee. I've only had one of those amalgamations in which I've been involved where they've come in on the numbers they expected; it's always way above that. I assure you that the numbers I'm throwing around to you don't even touch the surface of the real cost of this amalgamation.

The regions that have taken regionalization into account have all reported that the costs have gone up dramatically. In fact, Durham is the only one that said in their opinion it's cost-efficient and that was because that was a very spread-out area. But all of the others, Metropolitan Toronto and on and on—I've got them listed but I won't read them all—have reported that it's not cost-effective.

I certainly do not believe it's community-effective and, as Jean Peart has said, the trend all over the world is to get down to more localized policing because the problem of large police forces is that the citizens lose contact, there's a division between them and you have the chaotic behaviour that you see in New York City and many other large centres. The larger you get, the less involvement citizens have and the more chaos there is.

My esteemed colleague is yelling at me here to terminate my time. I have many other things I'd like to say. One of the other things is this: The Nepean board of trade and the Gloucester board of trade are totally against this amalgamation, although it's been reported that the Ottawa board of trade is for it.

I'm not against amalgamating all of the things that can be effectively amalgamated, but I think the costs have got to be addressed first. We can't go in on a matter of principle or what a political decision would be appreciated would mean, because unless we get the costs we can't address it. I would strongly recommend policing is so important and so urgent—remember, on policing hangs our democracy; there are very few people standing between chaos and orderliness—that this whole aspect of policing be deferred and be dealt with in a separate bill on its own. It's too important to be thrown into the



mishmash that is the current bill before the House.

**The Chair:** I thank the Nepean Police Services Board and each of you for appearing this morning. You have used your time and then some, but you certainly got your views on the record.

ALBERT BOUWERS

**The Chair:** The next scheduled witness is Al Bouwers, the mayor of Gloucester—

**Clerk of the Committee (Ms Tannis Manikel):** No, it's Osgoode. Sorry. We made a mistake.

**The Chair:** Osgoode?

**Mr Albert Bouwers:** Oh-So-Good.

*Interjections.*

**The Chair:** I'm at the mercy of people who, I assume, have correct agendas. Obviously, I don't. I apologize for that. Proceed.

**Mr Bouwers:** My name is Albert Bouwers and I'm the mayor of the township of Osgoode. I'm here today to speak to you on behalf of my mayoralty counterparts in the regional municipality of Ottawa-Carleton. My peers have chosen me to speak on their behalf as I have no personal vested interest in this issue since I do not intend to run for mayor or regional council in the upcoming election. I do, however, feel that as an elected representative I owe it to the people and the future of this municipality to speak on their behalf.

I stand here representing the majority of the region both geographically and in terms of population. I have served as the mayor of the township of Osgoode for the past 18 years and have represented the interests of our municipality on regional council for the same amount of time. For the past 16 years I have also been a member of the regional executive.

My membership on various provincial associations—for example, I served on AMO as director and executive; ROMA board of directors as first vice-president; committee to review county government, chaired by MPP Ray Haggerty; committee to review local government in Ontario and conflict of interest legislation—has allowed me to view municipal affairs from different perspectives and has given me the resources upon which to have comments regarding the issue of municipal reform.

I'm sure that you are expected to assimilate a great deal of information regarding the concerns over the implementation of Bill 143, but it is our hope that you will give serious consideration to the information and recommendations I will be making to you today on behalf of the people and 10 area mayors from Rideau, Goulbourn, Kanata, Nepean, Cumberland, West Carleton, Gloucester, Vanier, Rockcliffe Park and Osgoode.

I would like to begin by illustrating our concerns with Bill 143. The first major issue concerning Bill 143 and the one which is most near and dear to the hearts of my learned colleagues and the people they represent is that of the removal of local mayors from regional council.

It has been said that the ratepayers seek accountability. Who is closer to the issues of the people than the local mayor? You would be hard pressed to find a regional elected official that is as accessible to the ratepayers as

the mayor of a municipality. The mayors live in the municipality which they serve and, more importantly, were elected by the people to represent them and their interests in a fair and equitable manner. How then can the accountability the people seek be achieved at the regional level?

As you know, public meetings regarding the issue of one-tier government were held all across the region. Attendance at the public meetings in the city of Ottawa was 30 or fewer, with a population of 300,000. They were dwarfed in comparison by the attendance in the rural areas, in the non-Ottawa areas; in the township of Osgoode, over 300 people—the halls were just packed to the rafters—and that's a population of 14,000. Our ratepayers made it clear that one-tier government would not be acceptable. How is it that voices of only a few are heard?

In an independent poll done by Factor Research Group of Ottawa, 420 RMOC residents responded: 71% of the respondents supported the direct election of regional councillors; 79% favoured having local mayors sit on regional council.

In the last election, the elected regional chair's platform included the promise of no one-tier government in the region. Is this not the voice of the people? Does this not make it clear that the people want their municipality to be represented by their head of council?

Since the inception of Bill 77 and subsequently Bill 143, a great deal of research and discussion has taken place between the mayors of the 10 municipalities. Each of the municipalities has also gone to the public to urge them to convince the minister to include the local mayors on regional council. The response has been incredible. Hundreds of letters were received from municipalities across Ontario in support of West Carleton's resolution regarding the retention of mayors on regional council.

A great deal of concern has been expressed from municipalities all across Ontario: the city of Toronto, Scarborough, Etobicoke, townships of Camden and Chisholm, Oakville. I can go on and on. They have supported also the Association of Municipalities of Ontario. The most significant concern is that the passing of this bill would set a precedent for the random restructuring of other municipalities—and I'm told Ottawa-Carleton is unique. I'll get to that in a minute.

As mentioned earlier, hundreds of letters have been received regarding West Carleton's resolution. One such letter from the town of Oakville reads in part:

"Oakville town council is in concurrence with the township of West Carleton that this move will undermine the very fundamental, democratic basis of county council or regional government, whereby the heads of the lower tier meet once or twice a month at the upper tier level for the collective good of all concerned."

Studies relating to the structure of municipal government in Ottawa-Carleton are readily available to the minister. These include the Mayo, the Bartlett, the Graham and, most recently, the Kirby commission. Not one of these studies recommended the removal of mayors from regional council. All of the studies included exten-



sive public meetings. Therefore, it would be safe to say that since 1976—18 years and, coincidentally, my entire term as regional councillor—the people have not been interested in a regional government without the representation of the local heads of council. No one ever suggested the option of no mayors on regional council.

0950

In September 1993, the 10 area mayors also made a presentation, at the request of the minister, which dealt with the theory of representation by population in an attempt to show flexibility and encourage a compromise with this issue. Three options for representation by population were presented at that time: (1) population/vote, a weighted vote; (2) a scaled vote weight system; and (3) a regional council supported system. For further details, I have an addendum attached to my speech, and copies have been made available to you. The criteria for these options was based on: the minister's proposal of 18 wards, equity and fairness, maintenance of regional-wide focus and maintenance of an intermunicipal link.

During my service on the provincially appointed committee to review county government in Ontario, I was astonished at the diversity of the size and populations of municipalities within the county and regional systems. The following are examples:

Lambton county, now called Sarnia-Clearwater: total population, 124,000 people; city of Sarnia, 72,000 people; village of Arkona, in that same municipality, 707. Why didn't you kick the mayors off of those councils? That's just been done.

Regional municipality of Niagara: total population 385,000; city of St Catharines, 124,689; township of Wainfleet in that same municipality, 6,000 people.

Renfrew county—the previous speaker was talking about too many municipalities—has got 36 municipalities in it. The village of Braeside in Renfrew has only 510 people.

The united counties of Stormont, Dundas and Glengarry: village of Finch, 419 people.

All of these counties have their local head of council represented on the upper tier. The Ottawa-Carleton regional government structure is certainly not unique in comparison.

The Federation of Canadian Municipalities is on record as saying that there is no county, region or district council anywhere in Canada which does not have its heads of council sitting on the upper tier.

We are concerned that the proposed changes to the regional government structure in Ottawa-Carleton as set out in Bill 143 may be the first step towards an amalgamated single-tier government. We would welcome a plebiscite on this matter so that the public would have the right to express their opinion.

The second issue I wish to address with regard to this bill is the regionalization of policing services. The mayors of the region have serious concerns about the cost and service to the taxpayer of this proposal. Two independent studies have already been carried out with regard to this issue: Price Waterhouse and Judge René Marin.

In a letter to the minister dated September 30, 1993,

the following recommendations were made: (1) that the ratepayers of Ottawa-Carleton not be saddled with additional property taxes to implement regional policing; (2) that the unfunded liabilities of some police forces remain with the taxpayers who incurred the costs through special area levies; (3) that the implementation task force include the Ottawa, Nepean and Gloucester police chiefs and a senior officer from the OPP; (4) that the implementation be done in a logical fashion and that the province pay the phase-in and implementation costs; (5) that the region of Ottawa-Carleton receive household police grants on the same basis as all other regions in the province; (6) that the level of service be consistent for all taxpayers, ie, response time; (7) that no downloading of OPP costs to area municipalities in the region should commence until that is a uniform phase-in policy by the province across Ontario.

All municipalities within the Ottawa-Carleton region share a common concern that the most effective, practical and economical policing service be provided to each municipality. The report from the Ottawa-Carleton Regional Review Commission, the Kirby report, does not contain adequate support for their recommendations. The report failed to provide for community consultation to determine the needs and expectations of the community at large and various special interest groups. The report also failed to provide a costing analysis for the implementation of regional policing.

Citizens are concerned about the loss of local identity and control. Current policing programs are community-based and are tailored to their needs. Community policing has been introduced and has proven to provide ratepayers with an opportunity to become involved with the programs in their communities. With the implementation of a regional police force, the cost to the ratepayer would increase substantially, carrying with it no guarantees that the level of service will remain or improve.

Apart from the financial aspects of this proposed change, we are also concerned that the emphasis on service will shift to the urban areas. The geographic composition of the region is such that a concentration of resources in any one area could be detrimental to other areas of the region.

The third issue concerning this bill is in regard to economic development becoming the sole responsibility of the region. The area mayors wish to have included in the bill permissive legislation to allow for both local and regional government to become involved in the economic health of the region.

If the region were to assume responsibility for all existing lands, both commercial and industrial, there's a concern over the balance of growth. Limiting the economic growth of any one area in the region could in turn affect job creation in that area.

In the past, we have enjoyed a good partnership with the RMOC regarding the promotion of economic growth in our area and municipalities. Does this require a change?

The final issue of concern to the mayors is that of the lack of clarity regarding the delegation of responsibility for the sewer systems. In September 1993, the following

recommendations were made to the minister regarding this issue:

(1) That the cost of infrastructure weaknesses and deficiencies in specific municipalities not be borne by the general ratepayer. These costs should be recovered by the ratepayers of the municipality with the problems through a special area levy.

(2) That the region and local municipality have agreed in all briefs, including the region's, when responding to Mr Kirby's report to a formula for the division of responsibility for sewers. This solution essentially makes the region responsible for the establishment of the appropriate policies to protect the environment and to the end of pipe assets. The municipalities should continue to provide local collector sewers in the region.

(3) That an amendment to the Regional Municipality of Ottawa-Carleton Act include a definition of local and regional responsibility consistent with the regional position submitted to the minister in February 1993.

Currently, negotiations are under way between the municipalities and the region regarding the actual responsibilities for the sewers. This again demonstrates the effectiveness of the existing municipal and regional relationship.

In closing, it is important to note that although numerous efforts have been made to encourage the minister to consider all of the options, we have failed to receive a favourable response on any of these issues. We feel that the minister has shown a blatant disregard for our concerns and those of the people we were elected to represent. It is our opinion and the opinion of hundreds of other municipalities that if the concerns which we have outlined for you here today are not addressed by the minister, a mockery will be made of the democratic system. Could this issue become a repeat performance by the minister of what occurred in the House on March 28, 1994?

It is our trust that this government will seriously consider all of the abovementioned concerns, and we look forward to favourable amendments to this bill.

**Mr Drummond White (Durham Centre):** Thank you very much, sir. Your worship, there are a couple of points I want to bring out, if I could. From the population of the town that you very ably represent, if we were to extrapolate that to, say, the city of Ottawa, if their representation on the regional council were the same as your own, you would then have 60 representatives from the city of Ottawa. Now, I believe you probably are in agreement with some level of representation by population, but don't you think there should be some adjustments at some level of representation?

**Mr Bouwers:** Yes, I have no problem with that at all. As a matter of fact, I think we gave you the three options there: the weighted system that we've offered to you. In the county system, which has existed for over 100 years, the reeve, for example, in a county council, when a municipality has a population of over X number—I think it's 10,000—has four votes. So it's a very common system that has been used for years, and there's no problem that that similar system could be used in Ottawa-

Carleton. We've given you—and you'll find it as an appendix to your package.

**Mr White:** I appreciate that, but I'm also aware in terms of amendments to the bill that the ones that have been proposed by opposition have included an amendment that would not allow your municipality to have representation, to have a vote.

**Mr Bouwers:** Of course, I hope that my member did not make that. I'm sure it wasn't my member who would have made that.

**Mr White:** No, a member of the same party, though.

**Mr Daigeler:** Mr Bouwers, you were here when the mayor of Ottawa made her presentation. Essentially, I think she said that you're parochial and that you should get with it and you're afraid of change, and in the 21st century things ought to be done differently. I'm wondering what your reaction was.

**Mr Bouwers:** I was just amazed at some of her statements. She quotes things, for example, about the Ottawa official plan taking so long. Well, I don't know if she does understand that if the region is now in the position of the minister, the region takes the minister's place to approve official plans. So if it wasn't for the region, this official plan would have had to have been approved by the province in the same fashion. So there's no difference in that regard, expect that somebody has to protect the overall regional interests when it comes to official plans.

When we keep talking about bigger is better, there was a clear example during that meeting, where the city of Ottawa said, as a demand of the region, that it should make its shopping centre zonings conform as quickly as possible—"forthwith" was the right word. The city of Ottawa said, "It's going to take us more than two years to do that kind of thing." Unbelievable. They're so big. They've got the staff. They should have been able to do that overnight, you might say. But there's something that is just unbelievable: When they get big, they get into a bureaucratic nightmare that they can't even operate any more.

1000

**Mr David Johnson:** Thank you very much, your worship, for an excellent deputation. I may be a bit biased, but certainly from my experience in the past, I've seen poll after poll where it's demonstrated that people look to their local councils and their local mayors for leadership, involvement and accountability. Your comments with regard to the police force and the previous comments from Nepean are well placed too. In Metropolitan Toronto, for example, 40 cents out of every dollar that's collected at the regional level goes to policing.

I wondered, though, maybe in terms of a question, people are still disgruntled with regard to the cost of government: federal government, provincial government, all levels of government, regional and local as well, I'm sure, to some degree.

In Metropolitan Toronto, in response to ratepayer concern with regard to the cost of government, there is, through the local municipalities, an organization that's actively studying the possibility of the elimination of the



regional council as opposed to the local councils, where the mayor of Ottawa seems to think this is headed, and where you're concerned this is headed as well, to reverse the strategy there and do away with the regional government and just have the local councils. That will put a smile on your face, I'm sure. Has there been any discussion about that here, or what are your views on that?

**Mr Bowers:** No question, those points have been made. As a matter of fact, another interesting one was that we could probably be better off without a provincial government, especially the present one. It's interesting that the government that works best is the government closest to the people.

The sad miscomprehension that the people have about the cost of government and the brunt we bear every day, every time the tax bill goes out, is the fact that in our case almost 70% of our tax bill is for school board levy.

We can print it on there sideways, crosswise and every direction on our tax bill that so much is municipal. We had less than 20 cents out of every dollar of our tax bill, from which we do all the services such as garbage, library, community centres, snowplowing, you name it. They're getting the best bang for their buck at the municipal level, no question in my mind. The sad part is that people have to make the cheque for their taxes out to the municipality and that's all they remember, what the great big cheque amounted to. I wish the school boards would collect the taxes on our behalf, because we only get the small part. That would fix it all.

**The Chair:** Thank you, Mayor Bowers. I'd like to give you my appreciation for appearing before the committee this morning and presenting your personal views and your views in your role as mayor of the township of Osgoode, and also the views of the other mayors and communities that you've represented this morning. Thank you very much for your input.

#### THE GLENS COMMUNITY ASSOCIATION

**The Chair:** The next scheduled witness is The Glens Community Association. Good morning and welcome. You've been allocated 20 minutes for your presentation.

**Ms Pauline Meyer:** I'm Pauline Meyer, president of The Glens Community Association in the city of Nepean. I speak to you today as a representative of my community and as an interested resident of this region; very interested, because municipal government is the level closest to citizens. By its very closeness, it is the most accountable level and is responsible for the quality of our day-to-day life.

By this time, you've had briefings on the bill before you, by the minister giving the political viewpoint and by staff giving the bureaucratic viewpoint. I'm sorry that more effort was not made to understand the concerns raised by the public and by municipalities during the framing of this bill. A lot of time and effort has been put forth to present alternatives based on a living knowledge of the area, but to no avail. There has been virtually no willingness to modify any aspect of the bill other than the last-minute inclusion of the French-language school board provisions, which really just muddies the water again.

On behalf of The Glens Community Association, I

attended the Kirby commission hearings, which were the forerunner to this bill, made it a point to read all the studies and documentation which had been prepared as a result of the initiative to reform regional government, and responded to most of them.

The intent of the Kirby commission hearings was to consult with the area municipalities and the public to determine the type of change and the degree of change that should occur in the operation of regional government. The three previous studies and recommendations, by H.B. Mayo, David Bartlett and Katherine Graham, on the region's administrative, operational and electoral systems were the basis for this commission.

Two themes were dominant in the comments of participants at these hearings: They requested an assurance of fiscally responsible management and an assurance of equitable representation throughout the region. Neither is given in this proposed legislation, nor does there appear to be a willingness to amend the legislation to incorporate these two most important ideals.

Fiscally responsible management is lacking in the implementation of a regional police force. Startup costs are guesstimated to be in the \$4-million to \$11-million range. Any debt held by the three municipal forces at the time of the merger is to be assigned to the region, and thereby to all taxpayers, rather than the taxpayers of the municipality which incurred the debt. On the other hand, no credit is to be assigned to the municipalities for the transfer of their assets to the merged force. Taxpayers of the region will be responsible for the cost of the policing currently handled by the OPP in the more rural areas of the region. Although we pay a portion now through our provincial taxes, this base will shrink as a larger portion will be assigned to property taxes.

There are suggestions of provincial grants to offset some of these costs. We're still speaking of taxpayers' funding. This should not be entertained or promised, considering the province's financial plight. This offloading of provincial costs would be somewhat more palatable if legislation were to be implemented assigning the cost of policing by the OPP to each community on a province-wide basis.

The high cost associated with the regionalization of police services is probably the main reason for public objection to this proposed change. Certainly, area forces should be cooperating and forming joint squads in specialized areas. A common standard in the area of computer and radio systems should be set and each force would work towards instituting this gradually; that is, whenever changes in equipment are necessary. As well, the city of Ottawa bears a disproportionate cost to handle security at the provincial courthouse. This should be addressed by the municipalities in the region.

The choice of individual municipalities to designate industrial-commercial lands will be removed, thereby limiting their economic development, their potential for job creation and the possibility of increasing their tax base. Currently, municipalities are able to designate employment areas under the umbrella of the regional official plan. This has worked fairly well. There is an ongoing process of increasing cooperation among the



municipalities of the region, leading to more effective economic planning and development. This should continue, with the region maintaining the umbrella and allowing the municipalities to develop in conformity with the regional official plan.

The section of the act dealing with sewer infrastructure and maintenance does not specifically detail the assignment of financial cost. While there should certainly be regional direction and standards, especially considering that the region owns and operates the gathering and treatment facilities, each municipality should be responsible for the financial costs of upgrading and maintaining the individual servicing and feeder infrastructure within their own boundaries. The burden of poor planning or fiscal ineptitude on the part of any municipality should not be borne by the region as a whole.

1010

Regarding part I of the act, dealing with elected representation, much has been made of the necessity to ensure accountability to the electorate of the region. Today, all persons who serve on regional council are elected: some elected to a municipal council, which automatically enables them to sit on regional council, others directly elected for both a regional and municipal role. Quite frankly, I find it mildly insulting to be told continually, "People don't know who is responsible for what."

Section 8.1 states, "...the minister shall by order provide for...the boundaries of the local wards." I find it completely unacceptable that the democratic right of the municipalities and their citizens to determine their municipal ward boundaries has been so abrogated.

The suggested municipal boundaries for the city of Nepean show no understanding of the development patterns, of the inherent communities of interest or of the planned growth areas of the city, nor is there much attention paid to equality of representation by population within the six proposed city wards: One has a population of 11,000, the other five between 18,000 and 20,000.

The regional wards imposed, based on the previously mentioned and flawed municipal wards, just compound the problem. It is obvious that these regional wards take into account neither communities of interest nor projected growth areas. They give disproportionate representation to the city of Ottawa electorate at the expense of the other municipalities' electorates.

It is not good enough to say that changes can occur to boundaries after the next municipal election, because then will be too late and there is no assurance that the cooperation of the two levels, city and region, will be forthcoming.

This ill-conceived and hasty project should be revised and revisited in a logical and planned manner, by first directing the area municipalities to set local ward boundaries and then redrawing the regional boundaries, incorporating the principle of representation by population and by community of interest.

One other distressing aspect of the elected representation component is the removal of area mayors from regional council. The area mayors are most in touch with the municipal electorate and are in most cases the guiding

hands of fiscally responsible management within their communities. This is especially true in the suburban and rural municipalities.

With the imbalance of representation by population in favour of the city of Ottawa, as evidenced in the proposed makeup of regional wards and the fact that regional councillors will only serve at the regional level, not a combined municipal-regional function, it is imperative that the mayors serve on regional council as a link between the areas' citizens and the municipal and regional governments.

Two items in this bill, a greater regional responsibility in the environmental areas of waste pickup and storm water treatment management, and the assumption of control of street vendors on regional roads, are quite sensible but are issues that the area municipalities could have and have been cooperatively working on without the need for legislation.

In this time of economic uncertainty, citizens are demanding that all levels of government show restraint and that they evince a real understanding that there is only one source of income, the taxpayer. Any escalation of the costs associated with regional government for purely administrative reasons are not acceptable. I urge you to reconsider the economic ramifications of this bill and withdraw it from the order paper and allow the municipalities to continue to integrate services where and when warranted.

In the words of a former Prime Minister, please, let us remain a community of communities; therein lies our strength.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Thank you so much. Your presentation is full of knowledge. What I think it's based on is pointing directly to the unfairness of Bill 143. In many cases you've pointed out there is going to be built-in inequity and unfairness. I don't think your last request is going to be received.

**Ms Meyer:** I don't think so.

**Mrs O'Neill:** If you had the opportunity we do to present two amendments, what would you suggest to us that you think most important?

**Ms Meyer:** I would certainly suggest the electoral section on the municipal boundaries and the inclusion of mayors; that would be one. The other one would be an amendment that would hit several areas, but it's the assumption of costs by the local or home municipality. The municipality that was responsible for, in the case of sewers, bringing them up to standard, the city of Ottawa, and it's not a matter of building all new sewers because we're now a region and everybody should have a sewer—there is a real problem in our area with bringing the current sewer systems up to a proper level of service, the storm sewers and sanitary sewers together, and that is not acceptable and that has to be done. I do not believe that the region as a whole should have to pay the economic costs or the financial costs of this.

Those are the amendments I would like. I would like the costs assigned and I would like the ward boundaries and mayors included.

**Mr Daigeler:** I come back to the mayor of Ottawa

because I feel very strongly that while there is pressure from the member for Ottawa Centre, and she's here, I think the key pressure is coming from the city of Ottawa. I don't know whether you were here at the beginning—

**Ms Meyer:** Yes, I was.

**Mr Daigeler:** —but the mayor of Ottawa really showed very clearly where she was coming from. She wants one-tier government and she feels the other municipalities are already too many, and really, if I understand her right, she doesn't see any usefulness in their existence. I'm just wondering, what is your reaction to the presentation that was made by the mayor of Ottawa?

**Ms Meyer:** It's one thing for the mayor of Ottawa to say something for her 296,000 people, but you've got to remember that we have more than that on the outskirts, in the suburban and the rural areas. We're not speaking of the city of Ottawa having 75% of the population. It's less than 50%.

The regional government should be responsible for many of the things that it is responsible for today, but speaking as a citizen, to me, running down to the region for something—it's large. There are offices all over the place; there are people all over the place. You can't get the person you want right away. You go down to the city of Nepean, you walk into city hall and bang, you find who you want. You pick up a phone and you instantly are able to speak to the person you want.

This is what we've got. This accountability at the local level is very, very important to people. Municipal government handles all our day-to-day things: the garbage, the street-cleaning, the ditches, the roads and so on, and it really is important for people to have quick, honest accessibility.

**Mr David Johnson:** You've sort of led into my question, actually, and I congratulate you for your deputation today.

This may be what they call leading the witness, but in the limited time, from my experience as the former mayor of East York, in a municipality in the Metropolitan Toronto region, people and ratepayer organizations, community organizations such as yours, felt very comfortable in coming before our council, televised versions of the council, committee meetings etc, making deputations.

They would come with regard to local issues; they would come with regard to regional issues; sometimes they'd come with regard to provincial or federal issues, and state their case because it was close to home and they felt very comfortable in doing that. They expected me, as the mayor, to take that view to the metropolitan council and it was very helpful to me in getting that kind of advice.

I found on the regional government, though, on the Metropolitan Toronto council, that those making deputations were less likely to be community ratepayer organizations—they seemed to, as I say, be involved at the local level—and more apt to be special-interest groups with paid assistance. You've kind of commented on that, but what is your experience in that regard with your organization?

**Ms Meyer:** Our organization has made several

presentations at the regional headquarters. I find—I'm probably cutting my own throat here—that probably because the councillors are doing dual municipal and regional, they really aren't interested. I find that you have a much better rapport with your local municipality, and you have your elected representatives there forward your position. I find it much more willing to listen and to question and to find out what you really want and then carry it forward. I find that at the regional level they are not as interested in the individual communities' positions as they would be perhaps in some of the special-interest groups.

1020

**Mr White:** One point I would like to address from your talk is about the cost of sewers. I believe this bill basically allows for the sewers to be charged back to a local area, which is fairly unique. I think that addresses the concern you brought up about some areas needing more service that might be of a local nature.

The other issue I wanted to ask about was the very important issue you're concerned about with the ward setup and the boundaries. You point out that in a local area you can appeal to the OMB and ask for changes in the ward boundaries, but my understanding is that there were some problems in the setting up particularly of your ward—a little problematical. I'm wondering if you're aware of how that was done involving the clerks of the local municipalities. Did you have any input on that, Ms Meyer?

**Ms Meyer:** I certainly did. I addressed the ward boundaries commission that was set up. I made written representation and oral presentation. I'm not sure which problems you are alluding to, whether it's a matter of trying to put a cross-border regional ward in. I'm not quite sure what problem you think was there.

**Mr White:** Your ward, if I'm not mistaken, is one which will be difficult in terms of representation because it's a large geographical one that surrounds a more urban ward. Is that not right?

**Ms Meyer:** Are you speaking of the ward that I actually live in or are you speaking of the wards in Nepean?

**Mr White:** Ward 3.

**Ms Meyer:** That is another little issue. Yes, ward 3 is a ridiculous ward. It stretches the complete width of Nepean and from the greenbelt south to Nepean's south border. It has brand-new development in it which is the fastest-growing component of that and will soon require its own ward. It has two older neighbourhoods. It has a mix of commercial, industrial and so on and so forth. There is very little commonality throughout that ward. Yes, that was one I addressed specifically in my written submissions.

The other thing is that we have a ward that has 11,000 people in it and the rest of our wards, as currently laid out, have between 18,000 and 20,000. It's my belief that this 11,000 ward was put there in order to accommodate a regional ward being overlaid. That seems to be the only rationale I can find for it, because that ward actually would be better on the other side.



**The Chair:** Thank you very much, Pauline, for presenting your views and those of The Glens Community Association. It's been a very interesting discussion and I know the committee has appreciated the dialogue.

#### NEPEAN CHAMBER OF COMMERCE

**Mr John McCalla:** My name is John McCalla. I'm president of the Nepean Chamber of Commerce. My colleague, Buck Arnold, is executive director. We have prepared a brief for you. I'd like to go through that and then entertain any questions or comments you may have.

The Nepean Chamber of Commerce is the acknowledged and respected voice of business in the city of Nepean. Our 430 individual and corporate members represent 10,000 employees, and we have served the local business community since 1980.

For good and sufficient reasons, presented herein, the Nepean Chamber of Commerce objects to the substance of the proposed Bill 143 and urges it to be withdrawn.

Bill 143 imposes radical, unnecessary and unwarranted alterations to our system of local governance. We are aware that not one of the proposed alterations was contained in the Ottawa-Carleton regional review prepared by commissioner Graeme Kirby.

Bill 143 also establishes a regional police services board empowered to amalgamate the three local police services, including the Nepean police service, no later than January 1, 1997.

Although Bill 143 has not yet received even second reading in the assembly, the minister has placed advertisements in the local press declaring that the provisions of Bill 143 will be implemented forthwith.

The Nepean Chamber of Commerce perceives the local municipality as the cornerstone of the entire political process in Canada. It is the level of government nearest to, most accessible to, and most responsive to the needs of the electorate. The so-called regional issues are nothing more than simple consensus extensions reflecting a commonality of interest at the municipal level.

The proposed separation of representation to create a regional council entirely isolated and divorced from local councils is regressive and not in the public interest. Simply put, the regional municipality was created to better serve the local municipalities and it is their servant. It has no other independent legitimacy.

The present system of municipal governance has well served and will continue to well serve all the citizens of the region. Bill 143 would burden everyone with two separate individual representatives, one local and one regional, and makes no sense. Worse, it's wasteful of our very limited resources.

In particular, the imposition of new cross-boundary wards for the reorganized regional council will serve only to complicate the election process and confuse the electorate. We cannot willingly consent to the imposition of such a flawed process. To date, no one, including the minister, has produced a satisfactory explanation or rationale for the imposition of such a system.

The Nepean Chamber of Commerce strongly opposes the proposed amalgamation of the three local police services. The advantages claimed in favour of such an

amalgamation are highly subjective and probably illusory. We do not believe there will be any improvement in public safety, crime analysis, solution and prevention, ability to achieve employment equity goals, ability to achieve bilingual service and clarification of accountability and liability. No sound reasons have been advanced by anyone, including the minister, to demonstrate how the creation of an amalgamated police service could possible advance the achievement of those goals.

From our viewpoint, we are aware that a study done last year by the firm of Price Waterhouse, chartered accountants, revealed that amalgamation would generate additional costs of between \$4 million and \$7 million. We foresee the creation of a large police service less responsive to local needs and providing no discernible benefit to the citizens either in the city of Nepean or the region.

Finally, we are amazed that on a matter as vital to the interests of the hundreds of thousands of residents in this region, the minister has not seen fit, despite repeated invitations, to visit the region and sit down with our local representatives to discuss his notions concerning the reorganization of our institutions.

That's our presentation.

**Mr David Johnson:** I thank the Nepean Chamber of Commerce very much for the deputation. I know from my experience that the chamber of commerce, having to live in the real financial world, is most concerned about expenditures—thank heavens somebody is—and puts a little bit of sanity on what governments do.

You have commented particularly on the police services board. I have a document in front of me from that police services board which indicates the cost per capita of policing in Nepean at \$127 per capita; in Gloucester, \$122 per capita; and in Ottawa, \$168 per capita. This apparently is from Judge René Marin's report of just over a year ago. So \$122, \$127, up to \$168.

The concern here is that if it's all amalgamated into one, what's going to happen with that cost? According to Price Waterhouse and its report on municipal services, it tends to go up to the higher level, and that's been my experience too through political life. If that happened, I guess we'd be looking at about \$168 per capita right across the region. Is that the kind of concern you're looking at?

1030

**Mr McCalla:** What we're basically afraid of is the question of the cost of doing business in the region and in particular in the city of Nepean. We feel this amalgamation of the police services will result in additional costs, which we don't mind as long as there's some benefit, but there's no benefit. You see, the benefits haven't been defined, they haven't been convincingly explained. We don't think there's going to be any benefit, but we know there's going to be increased cost. We don't mind increased cost provided there's a recognizable benefit, but we don't see increased costs with no benefit as being a sound policy.

**Mr David Johnson:** Your basic concern is that costs are going to go up and the benefits aren't going to be



there. I don't know if you've had an opportunity to look at the Price Waterhouse report I quoted earlier.

**Mr McCalla:** It's been a while since I looked at it.

**Mr David Johnson:** They make the observation that in terms of looking at the different municipalities, and I'm only going from what they say, so I'm the messenger here, "The average salaries, including benefits, of Ottawa's administrative staff are approximately \$70,000, while for all other lower-tier municipalities combined it is \$42,400"—\$70,000 versus \$42,400—"and for the regional government the average is approximately \$65,000."

I don't know if these numbers have been disputed, but that's what Price Waterhouse claims, and that gives one pause in terms of the costs of bigger government. Maybe it explains why bigger government is somewhat more expensive. Is that the kind of experience you've seen?

**Mr McCalla:** Yes. The example that's comparable is the creation of the regional municipality of Ottawa-Carleton in the 1960s. That was created strictly for engineering and infrastructure reasons. The area was growing. We had to have control of the water, sewer, roadway systems. It was an infrastructure solution. The cost of the total bureaucracy increased by a large amount, but at least we got a benefit. We knew it was going to increase costs, but there was a benefit. With the police services, we see increased costs with no benefit.

**Hon Ms Gigantes:** I'd like to ask you to take a look at how people live in Ottawa-Carleton and think about the number of times that a person who lives in your municipality in Nepean might end up using or feeling the benefit of services provided by the Ottawa police currently. Would you agree that within an area such as Ottawa-Carleton we have depended on services in each other's municipalities for a good portion of our waking time, each of us, and does that not suggest to you that at some point it makes some sense for us to plan that service in one integrated way and to provide payment for that service in one integrated way?

**Mr McCalla:** I think you've put your finger right on it. I think the city of Ottawa police service has a fairly high per capita cost as well as debts it has incurred through the construction of its police service. They know they're going to incur further expenses in terms of their computer systems. I think they want others to share their burden, and I don't think it's a case that the people of Nepean or the business community of Nepean is going to benefit one iota.

I think there is cooperation among the police services. They have been getting along. There have been no recorded instances of problems between them, other than minor technical problems, because I understand they don't have the same computerized systems. But other than that, they get along. They provide an excellent service to the members of our community.

**Hon Ms Gigantes:** Do you think it's a good idea for them to have an integrated way of having their computer systems speak to each other?

**Mr McCalla:** Of course, and they're going to do that regardless.

**Hon Ms Gigantes:** Do you think it's fair, then, to ascribe that as an extra cost for the amalgamation of the police service in Ottawa-Carleton, which was done by an earlier witness today?

**Mr McCalla:** No, most of the additional costs are going to be in the payroll.

**Hon Ms Gigantes:** So you wouldn't ascribe that as an additional cost to amalgamation?

**Mr McCalla:** Oh, yes, it is. Everybody gets a promotion.

**Hon Ms Gigantes:** But you say it should be done in any case.

**Mr McCalla:** No. You're going to amalgamate your computer systems in any case, regardless of this legislation.

**Hon Ms Gigantes:** That was my question.

**Mr McCalla:** The problem is that the city of Ottawa will pay for it rather than the entire region. The legislation wants the entire region to pay for the city of Ottawa's new computer system for its police service, and we don't think that's a benefit to the people of Nepean at all.

**Hon Ms Gigantes:** I see. Are there members of your chamber who would also be members of the Ottawa-Carleton Board of Trade?

**Mr McCalla:** Indeed.

**Hon Ms Gigantes:** And they are represented by different positions on this bill therefore?

**Mr McCalla:** Yes, I believe so.

**Hon Ms Gigantes:** When I look, for example, at your comment, "The regional municipality was created to better serve the local municipalities and it is their servant. It has no other independent legitimacy," the chamber's point of view then might be read, and I'd like your comment, as a view of the regional government, which spends \$1 billion worth of taxpayers' money locally, is really that it is a committee of municipalities.

**Mr McCalla:** Yes.

**Hon Ms Gigantes:** Do you think people in your area welcomed the direct election of a regional chair?

**Mr McCalla:** Not the people I've spoken to.

**Hon Ms Gigantes:** So they'd prefer to have a committee of municipal representatives spend their \$1 billion?

**Mr McCalla:** Yes.

**Mr Ron Hansen (Lincoln):** Not having seen the total list of presenters—I represent Lincoln, in the region of Niagara.

**Mr McCalla:** That's where I was born.

**Mr Hansen:** I deal with five chambers of commerce down there, which all operate independently, and I've never heard anything to say they didn't like the way it was operating in the region of Niagara. Do the other chambers involved in this area have the same view as your chamber, or are there different views in different areas?

**Mr McCalla:** I'd like the other chambers to speak for themselves, but of the other eight area chambers, I know of only one, the Rideau township one, which would be

sympathetic to this proposed legislation.

**Hon Ms Gigantes:** The Ottawa-Carleton Board of Trade is too.

**Mr McCalla:** It's not a chamber of commerce. The board of trade is in favour of it. I'll let the others speak for themselves.

**The Vice-Chair (Mr Mike Cooper):** Mr Grandmaître and then Mr Daigeler.

**Mr Hansen:** I guess I've run out of time.

**Mr Bernard Grandmaître (Ottawa East):** I might as well follow up on this two-way question about the Ottawa board of trade and your chamber of commerce. I've always respected chambers of commerce, because they represent a united voice, a united front. Can you help me understand the difference in the points of view from the Ottawa board of trade and from you as a businessman? In Nepean, Gloucester, Ottawa, they're business people. Why is there such a difference in opinion between your chamber and the Ottawa board of trade?

**Mr McCalla:** Quite frankly, and to put it succinctly, I think this legislation is only to the benefit of the city of Ottawa.

**Mr Daigeler:** Thank you for appearing before the committee, even though, as you know, there is only one hour of debate on third reading and there's a closure motion which was passed by the majority of the government under which we have only today and tomorrow to discuss this matter. Nevertheless, it's useful to put your views on the record.

As late as yesterday, and earlier on in the House, the Minister of Municipal Affairs, who's only represented by his parliamentary assistant here today, made a lot of the following support for his position to exclude the mayors from regional council. I'm reading here from his opening statement yesterday when we started this process of looking at this legislation. He says:

"David Bartlett, the author of a previous study on the future of Ottawa-Carleton; Claude Bennett, former Progressive Conservative Minister of Municipal Affairs; the former and current chairs of the Ottawa-Carleton Board of Trade; the mayor and council of the city of Ottawa; the Ottawa Citizen; and the Federation of Ottawa-Carleton Citizens' Associations."

1040

These are the groups that the minister and, I think, the member for Ottawa Centre as well as using as the main supporters of their project, and from that, certainly the Minister of Municipal Affairs seemed to conclude that the majority of the people in Ottawa-Carleton are in favour. I'm wondering what your reaction is.

**Mr McCalla:** I don't believe that is a correct appreciation of the support and dissent from this proposed legislation. I believe that if they had a referendum on it region-wide the proposal would fail.

**Mr David Johnson:** There'll be one next year.

**Mr Daigeler:** You have written to the Minister of Municipal Affairs; I've received copies of that. Did the minister respond to you at all?

**Mr McCalla:** There's been no response whatsoever.

**Mr Daigeler:** I rest my case.

**The Vice-Chair:** On behalf of this committee, I'd like to thank the Nepean Chamber of Commerce for coming and giving us this presentation this morning.

I'd like to call forward our next presenters from Citizens for Fair Taxes.

**Mr White:** On a point of order, Mr Chair: I have a copy of a letter to the Nepean Chamber of Commerce and Mr John McCalla, president, from the Minister of Municipal Affairs. If we're going to make reference, we should be able to do so on both sides.

**The Vice-Chair:** Thank you, Mr White.

#### CITIZENS FOR FAIR TAXES

**The Vice-Chair:** I'd like to thank you for coming out this morning and giving us your presentation. Please identify yourself for Hansard, and the committee would appreciate it if you'd leave a few moments at the end for questions and comments. Please proceed.

**Mr Frank Spink:** Thank you. My name is Frank Spink. I'm speaking on behalf of Citizens for Fair Taxes. We are a group of citizens operating in a non-profit organization. Our primary concerns have been the ever-increasing tax load at all levels of government, the credit card spending phase which most governments appear to be in at the present moment, the almost total lack of concern over value for money. Too many of our politicians at all levels seem to think that money grows on trees. I can assure you it doesn't. It comes out of our pockets, and we know it.

I must turn first to the manner in which this reform is being pushed through. We were told early in the summer that the government wished to introduce this reform in time for the 1994 local elections. The bill then existed in draft form, but the government did not see fit to put it on the order paper until mid-December, at which time we were told that it must be passed by year-end, otherwise it could not apply until the 1997 elections.

Time allocation was threatened, but under duress the bill was withdrawn. There was no attempt to inform or consult with the public during this time. CFFT wrote to the Premier in August 1993, asking that the public be properly informed and consulted with respect to the proposed reforms before proceeding with the bill.

In our letter we expressed a number of concerns. We invited the Premier to meet with us to discuss these concerns. He was too busy and he delegated the Minister of Municipal Affairs to respond on his behalf. Time went by and, as we hadn't heard from Mr Philip by December, we again wrote to Mr Rae asking him to use whatever little influence he might have with the minister to get us a response.

In late January Mr Philip did respond, assuring us that our concerns were unfounded, that there was massive public support for the bill. There had been, he said, quite adequate public consultation through the Kirby hearings and the government knew it was doing the right thing. This in spite of the fact that no information on cost or other impact had been provided, nor had it been provided by the time the bill was reintroduced into the Legislature



in April, garnished, I might add, with a red herring about French-language school boards just to keep everybody off balance a bit.

We also observed at that time that the impossible had become possible. The December 31 deadline hadn't really been a deadline at all. We could even get by with an April 30 deadline. Does anybody sense a bit of a credibility gap there? The public was then told that even though there remained almost a month before the new deadline, it would be necessary to limit debate to one hour on third reading. Again that ugly word "credibility" comes to mind.

Having previously assured us that consultation was not necessary, the minister now magnanimously allowed us, the citizens of Ottawa-Carleton, one and one half days of public hearings. Of course, the dates, the time and the place were not made public until about 48 hours beforehand. Given the minister's proclivity for taking out full-page ads to tell us about the great things he's doing, couldn't you really have done a little better than that, folks?

I personally know a lot of people who are very upset about the lack of forewarning of this meeting, the lack of opportunity to speak to you that we have in front of us at the present moment. The Speaker of the Legislature suggests that Mr Philip was close to contempt of the Legislature. We think he is in contempt of the citizens of Ottawa-Carleton.

I would draw your attention to the short quotation which opens my presentation. I didn't read it, but it's very apt and I hope that you will take a close look at it. Taxpayers do not take kindly to the mushroom treatment, particularly when you have to pay for the manure yourself.

I have a recommendation for you: That the government engage in serious two-way communication with the citizens of Ottawa-Carleton and that the costs and other impacts deriving from Bill 143 be fully and frankly put before the public before proceeding to third reading. Closure should be neither threatened nor imposed.

We are told by the government that reform will bring us representation by population, democracy in its purest form. The fact is that rep by pop is only rational within a homogeneous community. In a community with significantly different characteristics and demographics, it can subordinate the legitimate interests of one group to the interests of a larger group with quite divergent concerns. That's why, for example, the United States has a Senate which is charged with seeing that rep by pop does not impose the desires of one large group to the detriment of another group with quite legitimate interests and concerns.

We submit that other structural reforms are required before making rep by pop a political imperative. Pure political doctrine must be tempered by logic and common sense. We believe it would be appropriate to divide the Ottawa-Carleton area into two regions, an urban-oriented region within the greenbelt and a rural region in the surrounding area. This would provide reasonably homogeneous areas wherein rep by pop might be legitimately pursued as a Holy Grail.

**Recommendation 2:** That the Ottawa-Carleton region be divided into two regions, an urban region within the greenbelt wherein regional government would be appropriate and a group of rural municipalities which would be better suited to conventional county government.

Bill 143 is highly permissive. It delegates extensive authority to regional council to allocate costs across the region or impose local levies for specific expenditures. Given that two of the municipalities within the region have massive debt loads, unfunded pension liabilities, deferred maintenance liabilities and infrastructure deficiencies, the other nine municipalities are justifiably concerned that there will be an attempt to offload these liabilities on to all ratepayers. Citizens for Fair Taxes shares these concerns. We believe the provincial government cannot evade its responsibility to establish policy for dealing with these liabilities.

#### 1050

**Recommendation 3:** That the province clearly establish policies for liquidating and amortizing outstanding liabilities which must now be assumed by regional government. We recommend you do that before enacting Bill 143.

There is a significant difference of opinion throughout the region on the question of retaining local mayors on the regional council. Bartlett, Graham and Kirby all reported consensus that a move to directly elected councillors was appropriate. There was also a strong consensus that 10 of the mayors should also be there. This is seen by many as a necessary check and balance on the dominance of urban representatives on council. Parochialism is not the exclusive domain of rural councillors. Given the strong views on both sides of this question, it appears to be appropriate to seek public direction by referendum before precluding the participation by mayors. It should be noted that mayors too are elected and thus are legitimate spokespersons for their electors.

It should also be noted that Bill 143 does not reduce the number of elected politicians within the region. Those who favour single-tier government would see this as a more effective approach to reducing overgovernance. It must be said, however, that single-tier government would be horrifically expensive. Price Waterhouse studies—they've been referred to before—suggest an increase of between \$25 million and \$77 million in annual costs would result from imposing single-tier government.

**Recommendation 4:** That the public be asked for guidance by way of a referendum on the question of mayors on regional-municipal council.

Regional policing is a very contentious issue. Bartlett says there's not enough information to make an informed decision. Judge René Marin, in his study, says that the efficiencies resulting from regionalization of policing would be minor. He concludes that in those areas where improvement might still be effected, this could easily be achieved through administrative arrangement between regional municipalities: a sort of 911 number for police calls.

Region-wide use of Ottawa, Nepean, Gloucester and OPP specialty police units and improved interforce



communications were cited as practical solutions. Reimbursement of the local forces for this specialty service would be administratively quite simple. The commissioner of the Ontario Provincial Police was quoted as saying, in 1992 I believe, "I fail to see merit in police regionalization for the purpose of increasing policing competency in the Ottawa-Carleton region."

There will be substantial costs incurred in police regionalization. Osgoode, Rideau, Goulbourn and West Carleton currently receive policing from the Ontario Provincial Police at no charge, except what we pay in income tax, of course. Bill 143 will make the regional force responsible across the region. The force may either perform the policing itself or subcontract the task to the Ontario Provincial Police.

We don't argue that the four municipalities should not pay their way, their fair share, but the method of implementing regional policing can have dramatic impact on the cost. If, for example, the job is contracted to the provincial police, the cost per capita will probably be about \$75 a year, which happens to be what they charge Kanata. If, on the other hand, the regional force charges the city of Ottawa rate, and I'm using Price Waterhouse figures here, the cost will be about \$180 per capita. There will be also be a one-time capital requirement in the order of \$10 million for new cars, radios, computers etc. It should be mentioned that the \$75 cost from the OPP does not fully cover its infrastructure costs, but those costs are there anyway.

There's also a potential for a dramatic cost increase in other municipalities. The total cost of police service across the region was \$93.8 million in 1991, according to Price Waterhouse. If under regional policing the per capita cost rose to the Ottawa levels of \$180 per capita, the total would increase from that \$93.8 million to \$103.8 million. That's almost 11%, but in fact the increase in smaller municipalities would be much higher. Smaller municipalities want to see provincial assurance that such increases will not occur. They also seek guarantees that there will be provincial funding provided over a five-year phase-in period for the municipalities about to lose their present, no-cost policing services.

**Recommendation 5:** That the proposal to introduce a regional police force be withdrawn.

The addition of the French-language school boards is a retrograde step. We had previously been encouraged by Mr Cooke's stated intention to reduce the number of school boards in the region. More school boards can only add to an education tax load which is already far too high.

The sections dealing with control of street vendors and taxi licensing are really quite incredible. The function of government surely is to make policy, not to try and act as bylaw enforcers. Damn it, we pay enough bureaucrats to do that sort of thing.

**Recommendation 7:** Redraft and simplify those sections. You're elected to make policy, not play bylaw enforcer.

The bottom line of all this is that the public wants to see more value for less money, not more money for less

service. It's disgusting, to me and to my organization, to see political gamesmanship which is already encouraging aspiring local politicians to transform two part-time functions into full-time functions with pay and expense allowances 50% or more above current levels.

We do not believe that most of the provisions in Bill 143 are of a nature which justifies the headlong rush to implement them. The urgency appears to be purely political expediency and quite unjustified. In short, gentlemen, we say to you, delay third reading of this bill. Go back, get it right, provide the taxpayers with full details of cost and other impact of your revised proposals, then come back and explain why the changes make sense. We have every confidence that informed taxpayers will make sound decisions. Attempts to withhold information and stifle debate only exacerbate the taxpayers' distrust of politicians and government.

**Mr White:** Mr Spink, you've talked about a couple of issues that I want to pick up on. The consultation issues, as you know in the letter you received from the minister—Mr Kirby met with 1,300 individuals, received 200 briefs over a 90-day period. We're talking about a round of consultations and a round of discussion about this issue that has gone over the last 18 years. That doesn't sound like a headlong rush to me.

Your group is called the fair tax group. I'm wondering, sir, do you think it's fair that your municipality has policing services that you receive from the Ontario Provincial Police that most of the rest of us are paying for. You are as well from the general revenue that you pay to the provincial government, but most of us pay at a local level and at a provincial level while you're only paying at one level. I'm wondering if you consider it fair that people in your municipality are only paying once while the rest of us are paying twice.

**Mr Spink:** I think if you will go back to the brief and to my remarks, I said to you that we do not dispute the fact that we have four local areas which are presently getting low-cost police service. No question about that.

**Mr White:** No cost.

**Mr Spink:** We agree that it is fair to pick up our share of that.

1100

**Mr Grandmaître:** There are five municipalities, Mr Chair, that are receiving free OPP.

Mr Spink, I know that you've spent a great deal of time—not preparing your brief; I don't think you needed this paper this morning, because I've spoken to you before on the phone and I think you know this by heart. I think your presentation illustrates very precisely and clearly what you and your association and the people of Ottawa-Carleton have been going through in the last three and a half or four years.

Mr Spink, I've heard again this morning that this was a rush piece of legislation. Three different dates were announced, three different occasions. Even yesterday in Toronto, when the minister appeared before us, he made this major announcement about the local school boards—not in the House. It wasn't important enough to be made in the House. It was made outside the House. So that's

the way this government has been handling Bills 32, 77, 143, and who knows, maybe next week we're going to have another bill. I really don't know.

**Mr Spink:** I think your presentation, your deputation this morning will certainly help us in third reading, because this government's mind is made up. It doesn't matter what you say, what the people of Ottawa-Carleton say, what this committee has to say; they will not accept any amendments and it will go through.

Talking about communication and the number of citizens the minister has met, well, let me tell you, it took him four months to reply to the mayor of Kanata's concerns. Four months. He was so busy and so rushed to pass this legislation that he couldn't even answer the mayor's letter.

**The Vice-Chair:** Mrs O'Neill, in 10 words or less.

**Mrs O'Neill:** I just wanted to say, I think the thing you pointed out was, this bill does not give Ottawa-Carleton fewer politicians; it gives them more politicians. People are being misled if they think we're getting fewer politicians. The shoddy way in which this community has been treated has been underlined by you.

I have a request here today from seven community associations in my riding, from the city of Ottawa, who want to make presentation to this committee in one presentation. They can't get on—48 hours' notice.

**The Vice-Chair:** Thank you, Mrs O'Neill. Mr Johnson.

**Mr David Johnson:** I add my congratulations, Mr Spink. In my experience, you speak for a large number of people in the province of Ontario when you say that the bottom line is that the public wants to see more value for less money, not more money for less service. I think that's something this government and all governments had better listen to or they're going to be in deep trouble.

You've commented on the police services in your financial analysis here, if it goes up to Ottawa levels of about \$180—I guess you're using from the Price Waterhouse—the extra \$10 million in cost in policing. That's a real concern.

My experience in Metropolitan Toronto, just from the financial aspect, is that when we went through this same process about half a dozen years ago, the councillors had virtually no budget, no staff from the local council serving on the regional level. At this time, now after the reforms have gone through, they are directly elected. As you've indicated here, you refer to pay and expenses etc. There are executive assistants, secretaries, expense budgets, travel budgets etc. The budget for the councillors exceeds \$6 million a year, up from virtually zero about six years ago. So those are the costs of this kind of approach.

I just hope all people are aware that what you're saying is absolutely right.

**The Vice-Chair:** Mr Spink, on behalf of this committee, I'd like to thank you for taking time out and giving us your presentation this morning.

**Mr Spink:** Thank you, Mr Chairman. However, there was one question put to me that I didn't respond to and I must.

**The Vice-Chair:** If you can be brief.

**Mr Spink:** I was asked whether all the consultation that has gone on before was inadequate. My answer is there has not been any consultation. You have had people appear before Kirby, various other people before Bartlett. You've had input, but there has been no return afterwards.

You've ignored most of what was given to those gentlemen in their commissions. You don't come back to us afterwards and tell us why you have ignored the advice you were given and why you are taking the course that you're taking. You just ram it down our throats. Thank you.

*Applause.*

**The Vice-Chair:** Thank you. I remind the audience that this is an extension of the House and there will be no participation from the audience, unless you're at the table.

CLAUDETTE CAIN

CYNTHIA IGNACZ

LOU KIRBY

**Ms Claudette Cain:** My name is Claudette Cain and I'm the mayor of the city of Gloucester. I've invited with me this morning members of our community because they were not given the opportunity to participate in this hearing, so I'll give up some of my time. In fact, the minister has about 12 written depositions of mine and of my residents.

I have with me Officer Lou Kirby, who is the president of the Police Services Association of Gloucester, and Ms Cynthia Ignacz, who is a community member of our police services board. But I want to touch on a couple of issues before I turn it over.

The mayor of Ottawa spoke of the initiation of this review by regional council. In fact, the request to initiate a regional—pardon me, I have a terrible cold this morning. It was initiated in 1987 by myself with another colleague on regional council. It was not initiated by a member of the city of Ottawa. We wanted to have some changes, and we have made some changes since the beginning of that time and have continued that. But we don't want change for the sake of change. I have to say I'm quite embarrassed, as the leader of this community, to see some of the snickers and to see some of the condescending questions and comments to residents who have put an enormous amount of time and energy into a process that they honestly believe had some merit. I think it's embarrassing.

I want you to know that the representatives of regional council from the city of Gloucester are today directly elected. The mayor of Ottawa obviously doesn't know what goes on around her.

I want you to know as well that Gloucester along with the other municipalities outside of the city of Ottawa represent over 56% of the people of this region, not what you've been given to believe here. The input that the minister has received from across this region has been primarily from those people outside of the city of Ottawa. Why? Because they're the ones who are going to be negatively impacted by this legislation.

Almost 10,000 residents and businesses have put their



names to petitions, letters, forms and everything—almost 10,000—and they've gone to the minister because I've sent them to him. Yet he still states as late as yesterday that the world is in favour of this. I'm sorry; somebody is either misinforming him or he doesn't listen.

I don't have the amendments we've put forward with me today because the minister already has them. They're very few. They're about four that make a commonsense change to this legislation. We're not against change. We want to protect the investment of our taxpayers.

The municipalities outside of the city of Ottawa have invested in their taxpayers. We have money in the bank. We have secured the future of our taxpayers, unlike the city of Ottawa. I don't think they should be paying Ottawa's bill. That's just common sense. I don't want to pay your bill and I'm sure you don't want to pay mine.

I'd ask you to please look at those four amendments that we brought to you. They make sense and they bring about the change in Ottawa-Carleton.

**Ms Cynthia Ignacz:** I will speak to the issue of regional policing in the Ottawa-Carleton area. I see it as a twofold problem. First, the desire to proceed must be rationalized in terms of the ability of our taxpayers to assimilate the additional costs. We also must determine the adequate advantage as it relates to service delivery of professional community-based police organization.

The first issue is the cost. As stated many times before in this hearing, the initial costs are estimated at \$25 million plus, and there could be a \$3-million to \$7-million increase in ongoing annual policing costs. Mr Kirby's report came out with recommendation number 36, that the province help to defer some of the costs by subsidizing regional policing. But we are all very painfully aware that this province is cash-strapped and the funding would not be forthcoming. Therefore, the taxpayers would end up being responsible to absorb the implementation costs and the higher annual policing costs thereafter. Nepean and Gloucester would subsidize the higher cost of policing in Ottawa, which has a much greater crime rate per capita. Is this fair, when there is already professional, cost-efficient service in our region?  
1110

Other related increased costs would be things like the system of buying out in collective agreements. One example is that the Ottawa police officers hired prior to January 1, 1984, may accumulate 455 days' sick leave. This unfunded liability is estimated at \$40 million to \$50 million. Who would be responsible for that liability? As well, would this privilege be extended to other members of Gloucester and Nepean, which again would increase the cost and it would be absorbed by the taxpayers?

Just talking about the harmonization of salaries, there again would be a higher cost associated and it would have to be absorbed by our taxpayers.

The second issue, and more dear to my heart, is the service. At the end of the day we must ask ourselves, how well will the public be served? How safe will the members of our society be: our senior citizens, our youth, abused women, minorities, the physically and socially disadvantaged of our community? How well will they be

served? The disappearance of individual municipal police services such as Gloucester and Nepean would isolate those citizens from the police. It would retard the progress in the implementation of community-based policing.

The issues must be addressed rationally. We must analyse the local situation with care. For example, Gloucester contains unique residential pockets. How would or could a regional service meet their needs? Thirty per cent of Gloucester's population is francophone. We must continue to ensure we provide the proper and appropriate responses to them, and service.

We cannot lower the priority of local problems, and with regionalization, the control of the police service would gravitate to the larger municipality. Regionalization would change the bureaucratic structure of police organizations, thus impacting on the relationship between police and community. People must come before the method and the structure of policing. The higher crime rate in Ottawa's centre core will create a need to utilize resources that would otherwise service the suburbs. All regional police in Ontario have shown this to happen.

Larger bureaucracy is increasingly removed from the innovations such as community-based policing. Senior management of smaller services are more accessible to the public, and this may not be the case in regional policing. If the community is removed from the problem-solving, the procedures and the operational standards, you are defeating the concepts of community-based policing.

The Gloucester Police Service recognizes the necessity of maintaining visible organizational access to the community and readily acknowledges that the community groups have legitimate roles in influencing our police operations. Regionalization could decrease the positive police community relationship that now exists and lose that intimate knowledge of our officers that they have with our community.

We must remain close to our community, therefore closer to the problems affecting that community, and a flatter organizational structure results in the development of more generalist officers. This complements community-based policing initiatives and enables direct interaction.

There is also a stronger team effort in police services such as Gloucester, where officers know each other and they know their community members. Larger police bureaucracies are associated with centralized control of policy, but a consequence could be that the police service will be first and the community will be second. That is not conducive with our goal that we have community accountability.

Community welfare and existence should be paramount to all other considerations. We should not lose sight of the welfare and interest of the community.

In conclusion, I would like to say that the proponents of the regional policing form their position from primarily subjective analysis. As stated before, there is not enough analysis out there to know how regional policing would affect Ottawa-Carleton.

All communities are unique and deserve a tailored service of professional police services. This delivery exemp-



lifies the modern, community-based policing approach that Gloucester is committed to. Will our francophone and minority communities maintain their identity and the relationship with a larger bureaucracy? Individual police services in Ottawa-Carleton currently deliver programs which are community-based. They're effective, they're economical to local taxpayers and are more specifically tailored to the requirements of the community that they serve. We should not enter an agreement unless it's proven that regionalization can provide some cost-effective level of service in being accountable to our community. Thank you very much.

**Mr Lou Kirby:** Thank you. As introduced, I'm Lou Kirby, president of the Gloucester Police Association and am in no way related to Graeme Kirby. If I was, I would have disowned him.

I represent approximately 185 members in the police association in Gloucester, and I'm speaking for Gloucester only; I'm not speaking for the Ottawa or Nepean associations at this time.

Our association met approximately two years ago, over a year and a half ago, and held a vote on whether we wanted to go to a regional force or not. My members at that time voted 75% opposed to regionalization, based mainly on the fact that we have a very fierce pride in our ability to provide a very personal service to the population in Gloucester and we wanted to maintain that. The legislation, whether it came or not, would have a great deal of effect on a very small number of people, really, but you're affecting the lives of 185 people, virtually changing their jobs.

That's not my main concern today. My main concern is the way this legislation has been put forward, and it's not been done before. We have a possibility of a two-year gap from the time the new police service board is formed until the time that the regional police service is in place, or should be in place, or has to be in place. There was no consideration to the police associations or the collective agreements through that process.

As you're aware, under the Police Services Act, the associations are formed by employees of the board, who will then, in January 1, 1995, become employees of the regional board, leaving the Gloucester association and Nepean association with less than the 50% plus one required to form an association. On the same hand, we still have the responsibility and the duty to our members during that two-year period to represent them, to maintain their working agreement; and although with the social contract we can no longer negotiate and under the way the Police Services Act is written we cannot negotiate, it will be the responsibility of the regional police association.

There's no way that government can or should impose a law saying that the association must be formed by such-and-such a date, being January 1, 1995. I am left now with the position of representing 185 members for two years when I have no say in what happens if a grievance comes forward from our working agreement or in anything that happens within the job. I will have no way to bring that to the regional board without going through a regional association which we will not be a major part of,

because with the pure numbers, Ottawa will naturally have more members on the board, making it virtually impossible for me to protect my members for that period of time.

I personally feel the legislation was rushed. It was put forward without consideration for the people it's affecting the most, our members, and it has left us in a position where we can't do what we have to do, what we're sworn to do for our membership. On that ground, I would like to make a recommendation that this legislation be relooked at and not brought forward at this time. I would like to see a further study on it for the costings, and bring it up at the next election after this one and look at it properly, not rush it through like we are now. Thank you very much.

**The Chair:** Thank you. Questions.

**Mr Grandmaitre:** I'd like to make a comment on the francophone representation of this new regional government setup. I agree that there is no guarantee that francophones will be represented or will even have a seat on this new regional setup. Even back in 1969, under a Conservative government, at least the city of Vanier and the francophones were guaranteed a seat at regional council. But now with the new concept, the new setup, I'm afraid the francophone representation will not be present at regional council, and this will certainly affect the bilingual atmosphere that exists in the Ottawa-Carleton area, especially in the capital city of Canada.

**1120**

I was so surprised—amazed, I should say—to hear the mayor of Ottawa talking about the 11 small municipalities of Ottawa-Carleton. That's how she described the capital city of Canada. It's amazing.

Madam Mayor, I have a question of you. You were closer to the scene than I was. Describe how you felt when the minister kept turning you down. Meeting with the 10, if I can you call you this, outside mayors, how did you feel being treated the way you were treated?

**Ms Cain:** Following the AMO meeting, we were encouraged. The minister offered us a challenge. It dealt with representation by population, as was brought up by Mr White a little while ago. We accepted the challenge of that minister. We went to work with residents, we did research across this province, and we came up with what we believed were three viable alternatives.

We never got a response from the minister till I read in the paper that this bill was going through by May 1. You can go on talking, but you have to wonder, are we on a roadshow? I don't want to think that. The people of this region don't want to think that. They've put a lot of time, money and effort in what they've done.

**Mrs O'Neill:** Mayor Cain, you represent over 100,000 people.

**Ms Cain:** That's correct, and 700,000 at the regional table.

**Mrs O'Neill:** You have brought before us two people who are speaking on behalf of those residents this morning, and some of them on behalf of people who are going to be governed with their lives under collective agreements that are going to be disturbed. No consider-

ation has been given in this act to any collective agreements of any employees, as far as I know.

**Ms Cain:** That's correct.

**Mrs O'Neill:** Have you had the opportunity, considering the number of people you represent and the leadership role and because you were the first person who brought this forward—I remember that well—to meet with any member of this government? Were you invited to bring forward your opinions on Bill 77 or Bill 143 to any minister of this government, to talk and bring forward concerns that you and your residents have?

**Ms Cain:** In fact, I was refused. I had for a while quite a dialogue going with the Minister of Municipal Affairs' chief of staff. Then I guess, you know, he ran out of lines and had to categorically tell me that the minister would not be meeting with anyone.

That's unfortunate because the turnout for the Kirby hearings was the greatest in—I think of all the municipalities, Gloucester had the most, right? We had over 800 people talking to Mr Kirby. We held a focus group which had over 100 people. There are petitions just in Gloucester of over 2,000. I wanted to tell him about it and I was refused. I was refused to meet with the minister here and I said: "Can I go and talk to deputy ministers? Can I go and talk to assistant deputy ministers? Can I bring constituents with me? Can I bring police officers with me?" I was refused. Is that public consultation?

**Mr David Johnson:** Your worship, you're to be congratulated not only for the presentation today but for your initiatives during the process and, as you indicated, the three options that you and the other mayors put forward to the government in terms of how to deal with the issue of the representation of the mayors, but apparently, unfortunately, to no benefit, up to this point.

**Ms Cain:** Can't give up.

**Mr David Johnson:** You can't give up, right. I would like to say, first of all, that it's becoming more and more apparent, as we hear the deputations, that people are obviously very proud of their municipalities, such as Gloucester and Nepean, and very proud of their police services, I might say. I'm hearing that message.

The community-based approach that is being taken is being tailored to the individual needs of the municipalities, obviously, which are different from municipality to municipality, and certainly different from Ottawa and some of the other municipalities.

I would like you to comment, your worship, or perhaps the police officer. The government has indicated, or at least I've heard it said—let's put it that way—that the benefit here is that crime does not know boundaries, that crime goes from municipality to municipality, so we really need a regionalized police force to deal with it. That's the number one benefit.

In Metropolitan Toronto I would tend to believe that because it is very homogeneous, but as the previous speaker said, Ottawa-Carleton is not so homogeneous, so I am yet to be convinced that the local police forces cannot deal most effectively with their own municipalities. But I'd like to hear your response to this whole issue.

**Mr Kirby:** In the area of crime knows no boundaries, we have to agree on that; that's a natural, known phenomenon. Regionalization in Ottawa-Carleton is not the answer to that. It's such a huge area you could not police it from one police station. Communications through a regional force would be no better than the possibility of communications through better cooperation between the three local forces as they are now. The communication gap is not reason enough, I think, to go to a regional police service, due to other reasons, the cost and so on. But that problem can be solved far better through better communication within the forces.

**Hon Ms Gigantes:** Mayor Cain, I appreciate that you're having struggles with your health and so I am glad you have been able to join us this morning. I understand your feeling of—well, I'd describe it as bitterness about not remaining, as mayor, as a member of the regional council.

I still find it difficult to understand, as you claimed earlier, that somehow what was being proposed in this bill was that people in your municipality of Gloucester, or in other municipalities outside the city of Ottawa, would be taking on Ottawa's debts, so perhaps you could say a few words about that, and in the same manner perhaps you'd comment on the question of how people in the city of Ottawa have contributed to the expansion of sewer and waterworks in your municipality as part of the regional framework that's been built up.

**Ms Cain:** I'll try and address them in the order you have. I have no notes with me but I can go by memory because I've been so intricately involved. We know at this point in time that the city of Ottawa, for example, has an unfunded liability of \$23 million in the policing service. They also have a heavy debenture on their police building.

**Hon Ms Gigantes:** As does Nepean, I understand.

**Ms Cain:** Gloucester has less than \$200,000.

**Hon Ms Gigantes:** Everybody has some debentures.

**Ms Cain:** Yes. What we're asking in our amendment I think is fair. It says that if we have a net liability, you take all the assets—like Ottawa's big police station, and that's a big asset—and you take Gloucester's assets and Nepean's and all the assets, and you subtract the liabilities from that. I don't want to pay Ottawa's sick leave fund, \$23 million, thank you very much. You deduct that, and what the net liability is, if Gloucester has incurred enough liability and Nepean and Ottawa, well then, they should pay it.

All we're asking for is an ability, an amendment in there that says that if there is a net liability, the region shall levy that on the taxpayers of that municipality. Madam Minister, I want to tell you too that in that instance the mayor of Ottawa supports this. She has said so publicly, that this is fair.

1130

**Hon Ms Gigantes:** I could understand that, because my reading of the bill means that the work that will be done between now and 1997, when the new regional service would become physically, as it were, in place, that's precisely what would be happening and the bill



provides the mechanisms for that to happen.

**Ms Cain:** We've had three sets of lawyers check it out and that's not the case and that's why those lawyers prepared the amendment and gave it to the minister, because it didn't provide that. It didn't give those assurances.

The other part of the debt that worries us so much is the one referred to by Mr White a while ago about the sewer debt. He inferred that the bill's all okay and we have the ability to impose a levy on any municipality. That's right, but we have that ability today. We don't have the ability today, though, to take over Ottawa's sewers just like this. This bill does that, so what we're saying is, if we take them over, if the region takes them over and there's a deficiency, not only should there be an ability, the word "shall" should be replaced with "may."

**Hon Ms Gigantes:** These people who live in—

**The Chair:** Thank you very much, Ms Gigantes. I'd like to thank each of you for appearing this morning. On behalf of the committee, I think they found your views interesting and they're obviously important.

**Mr Hansen:** Mr Chair, could I have a point of order? It was stated by the last presenter that there was snickering among the committee members here and I didn't see any snickering.

**The Chair:** It's not a point of order, Mr Hansen, but thank you for the information.

ALEX CULLEN

**Mr Alex Cullen:** My name is Alex Cullen. I'm a councillor from the city of Ottawa for Richmond ward. I sit on regional council as a result of being a member of Ottawa city council. I would first like to thank members of the committee for taking time from its busy schedule to come down to Ottawa and discuss this important reform, local reform to local government in Ottawa-Carleton, and for allowing me to express my views on Bill 143.

I believe the government's proposed reforms embodied in Bill 143 fairly reflect the work of previous studies—and I brought them here just in case anyone was worried about them—on regional government in Ottawa-Carleton in the past five years, in particular those conducted by Bartlett, Graham and Kirby. While it may be true that the government's proposed reforms do not satisfy everyone—certainly in Ottawa we had hoped for one urban city within the green belt—they are a major step to providing direct political accountability for the exercise of region-wide responsibilities.

Regional government responsibilities in Ottawa-Carleton are indeed of critical importance to the taxpayers of Ottawa-Carleton. As you may know, regional government is currently responsible for regional roads, public transit, the administration of social assistance, child care services, public health services, water, main line sewers, sewage treatment, garbage disposal, urban planning and emergency services, 911. These responsibilities amount to a total budget of over \$1 billion for regional government in Ottawa-Carleton.

Bill 143 will give additional responsibilities to regional government in the areas of policing, waste management

including garbage pickup and recycling, and in regional economic development. To meet these responsibilities in an effective and accountable manner requires the direct election of regional councillors, a concept endorsed by previous studies in Ottawa-Carleton by both the city of Ottawa and regional council and proposed in Bill 143. This is the very minimum that must be implemented in time for the next municipal election this November and for which I ask for your commitment.

I'm sure you're aware that the citizens of Ottawa-Carleton expect reform of their local and regional governments, particularly so after so many years of study. Citizens of Ottawa-Carleton have made it clear they expect reform to streamline, to make more effective and more accountable their local and regional governments.

The provincial government's proposals are an attempt to accomplish these goals, not only through the creation of a directly elected regional council with no net increase in politicians—something unique in these days—but through a clearer delineation of regional responsibilities. For example, having regional government assume full responsibility for water, sanitary and storm sewers, waste collection, recycling and disposal clarifies an important civic function and permits a regional approach to what is clearly a regional issue, the interaction of human habitation within our environment.

However, there are a number of specific concerns I would like to draw to your attention, which I'm sure others have as well. I'll start with the role of municipal mayors. Concern has been raised by some local mayors about the loss of their positions on the new regional council. I support the premise that given the nature and breadth of regional council's responsibilities, and its \$1-billion budget, full-time political representation is required. On that basis alone, municipal mayors, by definition, would not qualify.

The government's proposal of electing 18 regional councillors, representing on average some 37,000 people, respects the democratic principle of representation by population. Retaining mayors on regional council from municipalities ranging in size from 2,100 in Rockcliffe Park village to less than 15,000 in West Carleton to 107,000 in Nepean to 313,000 in Ottawa clearly would not meet that principle. Indeed, the proposed regional wards match or exceed eight of the region's 11 municipalities in population.

You should be aware that the Kirby commission, in its interim report, which I have here, suggested that Ottawa-Carleton's 11 municipalities be reorganized into five, to create a better balance and more sensible planning areas. This, of course, was vigorously resisted by the area municipalities—surprise, surprise. The minister, in his July 22, 1993, announcement of the legislation, then Bill 77, did state that had there been better balance among the area municipalities, then it would have been possible to retain the mayors on regional council.

Since that time, as you are aware, the Minister of Municipal Affairs, in his November 26 letter to the rural and suburban mayors of Ottawa-Carleton, offered a compromise of a transitional period that would allow the mayors of the 10 municipalities, excluding Rockcliffe



Park village, the smallest, to retain representation on regional council with voting privileges. This, however, was rejected by those mayors. In the end, however, in order to respect the democratic principle of representation by population, the government removed the mayors from the new, directly elected regional council. Our municipality, the city of Ottawa, which has 46% of the population of the region, concurs with this move.

One last item on this topic relates to the Association of Municipalities of Ontario's resolution to retain mayoral representation on Ottawa-Carleton's regional council that was adopted at its annual meeting last August. I attended that annual meeting; I was a delegate. I can tell you that this motion was a late motion, moved on the floor of the meeting without prior notice, and was adopted without giving a full opportunity for those of us in Ottawa-Carleton to present the issues behind the legislation.

Those proposing this emergency motion, which I believe has been communicated to you, couched it in terms of, "If this could happen in Ottawa-Carleton, it could happen to you." This, of course, is nonsense, as what the government is proposing in Bill 143 reflects the unique situation in Ottawa-Carleton, 11 municipalities in Ottawa-Carleton that range, as I said, from 2,100 to 313,000 in population. In my view, the delegates at the AMO annual meeting were misled about the intentions of the provincial government with respect to mayoral representation on counties and other regional governments in Ontario.

Dealing with the number and determination of regional wards, one of the principles of regional government reform supported by many citizens in Ottawa-Carleton and articulated in both the Graham and Kirby reports was that, to the extent possible, regional wards should cross municipal boundaries to reduce the local, parochial nature of representation—and I'm equally as guilty—found on the current regional council.

This, coupled with the principles of representation by population and protecting communities of interest, led to the development of the boundaries found in the Graham report, which was endorsed by Kirby in his report. Graham's recommendations were also subject to public consultation—communities in my ward took advantage of this—the result of which is found in the province's proposed regional ward boundaries. I endorse both the principles used in determining these boundaries and the proposed boundaries themselves.

However, cross-municipal boundaries for regional wards have led to a misleading numbers game by those who seek to discredit the government's reforms. Of the 18 proposed regional wards, 10 are wholly within municipalities; eight are shared. Of the 10 wholly within municipal boundaries, Ottawa has six—I have not counted Rockcliffe Park village—Nepean has two, Gloucester, one, and Kanata, one. However, some have taken the eight shared wards and reallocated them, claiming that Ottawa will be overrepresented in 10 regional wards. On that basis, though, if we use the same principle, one could equally say that Gloucester could have five regional wards or Cumberland three regional wards and therefore they would be overrepresented.

However, this both misleads and misses the point. Regional wards that cross municipal boundaries are not the property of any one municipality; they are electing regional councillors who will have to represent the interests of their constituents. Besides, the principle here is representation by population.

#### 1140

**Policing:** The government proposes changes to policing for the region through amalgamating Ottawa, Nepean and Gloucester police forces and through providing police services, either directly or through the OPP, for Cumberland and the balance of the other municipalities. As you know, Ottawa-Carleton is the last region in Ontario to have a regional police force. For the urban areas of Ottawa, Nepean and Gloucester, a single police force is an inevitability, as urban crime respects no municipal boundaries. Further, the government has announced its intention to charge municipalities for OPP policing. So a reform of police services in Ottawa-Carleton is both appropriate and timely. In my view, Ottawa-Carleton, as Ontario's second-largest urban area, has now reached a level of development that requires a regional police force.

The last point I want to touch on, the one that's been, I'm sure, raised by other presenters and will be raised again, is the allocation of costs. Much has been made by some that the costs of amalgamating police forces, for example, within the region will lead to greater costs for non-Ottawa taxpayers. As you know, the government has delayed the official amalgamation of the three area police forces until 1997 and has promised to fund the transitional costs related to amalgamation. The issue of costs of policing afterwards lies in the hands of the directly elected regional council, who of course will be held accountable for their actions by their taxpayers.

A similar argument has been made regarding the effect of transferring responsibility for waste management, particularly sewers, to the region. Some have said, and I just heard it here, that it's not fair for non-Ottawa taxpayers to foot the bill for the city of Ottawa's aging sewer system, although, since Ottawa has most of the jobs in the region, clearly non-Ottawa taxpayers contribute to the use of the sewer system.

This is another issue that lies in the hands of the directly elected regional council, which has a number of options before it. One is the notion of special area levies, which the regional municipality of Ottawa-Carleton already uses with respect to public transit, water and child care. I have attached an annex to my presentation, the last page, where you can see the special area funding. In other words, the resolution to these problems of costs lies with the locally elected representatives, not with the provincial government.

In conclusion, I believe that while the government's proposed reforms may not satisfy everyone, they do represent real progress. To fail to take advantage of this opportunity for significant reform would condemn citizens in Ottawa-Carleton to more years of study and inaction. Since its establishment 25 years ago, the region of Ottawa-Carleton has been growing and changing, and its institutions must grow and change with it. I ask, therefore, for your support for these initiatives.

**Mr David Johnson:** I thank Councillor Cullen for his deputation today. I will make a few observations, and you may wish to respond to them. I'm always a little amused by the word "parochial." Sometimes when a councillor acts in a certain way he's accused of being parochial, but other people would say he or she is being responsive, so it's a fine line there between being parochial and being responsive. I just put that forward as an observation.

**Mr Cullen:** It's pretty hard to get elected if you're not parochial, that's a fact.

**Mr David Johnson:** You see, some other people agree with me on that.

You indicated in your comments that the minister has taken a certain approach with regard to the mayors. I found it interesting that last November the minister recognized the contribution of the mayors at the regional council by putting forward an amendment which would allow the mayors to be on the regional council with half a vote each, I think it was.

**Mr Cullen:** For a transition period of one term.

**Mr David Johnson:** We all realize that there's an election coming up at the provincial level and speculation about who may or may not form the next government and what may or may not happen before the next municipal election. I offer that as an observation too. But the minister at that point apparently was recognizing the role of the mayors on the regional council.

It was also interesting that earlier this morning his worship Mayor Bouwers talked to the issue of rep by pop. I'm madly digging through the brief, but he indicated that in a number of regional situations indeed there was quite a diversity. In Lambton county, for example, Sarnia was 72,000 people and the village of Arkona was 707. What's that, a factor of 100 to 1 or something like that? It's a tremendous difference, but it works there. His point was that there's a historic reason for that. Rep by pop is somewhat important, but there are other factors that go into consideration, and the history of this region, Ottawa-Carleton, perhaps would dictate that we would take a broader view than just a straight numbers game in terms of who does what.

Finally, before my time runs out, Metro Toronto has a budget of \$3.5 billion and there the mayors do serve on the regional council. Some may say it's not the perfect council, but people come from here, there and everywhere to see the Metro government in action. It may not be perfect, but it seems to be working, and there the mayors play an important role on the regional council. If it works there, why couldn't it work here?

**Mr Cullen:** I'll just work backwards. For Metro you have a council of I believe 18 to 21 councillors—I forget the exact number—

**Mr David Johnson:** It's 28.

**Mr Cullen:** —so 28 councillors and six mayors, which I think is a marked difference from Ottawa, where you propose 18 directly elected councillors and 11 mayors. Even in the instance of Metro, the mayors there do not play the corporate role, which is the basic argument that the mayors here in Ottawa-Carleton are claiming.

It goes back to the issue of rep by pop. Even with the 18 regional wards we have, there is the usual variation factor, and you're all familiar with it as members of the Legislature. In our instance, it's 25% up or down. But the voter, realizing that you do adjust to reflect communities of interest, does believe that his or her vote should be equal to any other taxpayer's vote within the region, and that came out time and time again throughout our whole process. This is not something the government dreamed up: rep by pop. This is something we've had a lot of representation about from community association, the federation of citizens' associations. Community associations in my ward is a very strongly held principle, and I don't think you can neglect that.

If the government had adopted the interim report of Kirby and gone for five municipalities, the mayors would be on, there'd no problem. That's what the minister said in his statement: had there been better balance among the municipalities.

It's pretty hard to argue the range of municipalities in Metro, which has East York, some hundreds of thousands, going all the way to Toronto, which is a million whatever, and here we're dealing with 2,100, all the way up to 313,000. It's too much of a difference.

In terms of the minister's suggestion of a compromise, it was purely transitional, to try to come to some kind of arrangement and to talk to the concerns being raised by the opposition. They weren't bought into. It's gone. I'll leave that as it is.

In terms of parochial, yes, you're quite right. If we're not parochial we don't get re-elected. I have to tell you, though, this is a regional council, and sometimes regional interests have to outweigh municipal interests. Too many of us, because our first job is at the local municipality, are putting on our municipal hat.

For example, when we extend services past the greenbelt, it's city of Ottawa taxpayers who pay two thirds of that. We contribute two thirds of that budget for the region, but the votes on council are such that the services go out there because there is a desire in the suburban and rural areas to promote that kind of development.

If we had regional councillors with boundaries that cross over municipal boundaries, therefore we're going to have a more regional approach to these issues. That's what Bartlett called for, that's what Graham acknowledged, and that's what Kirby acknowledged, and that's what the citizens of Ottawa-Carleton have accepted. If they're going to be directly elected, let these things cross over the boundaries.

**Hon Ms Gigantes:** I want to pick up on the same theme. We had two suggestions put before us this morning, and I wonder if we could get your comments. One was from a representative of a community association who noted that when a delegation from her community went to her local council, which happened to be Nepean, compared to when a delegation went to regional council, her experience with the current makeup of regional council had been that there was a fair amount of disinterest compared to the amount of interest at the local level. I'd like your comment on what that means. She suggested that to admit this might mean she was cutting



her own throat in terms of the position she was taking.

The other interesting comment came from the Nepean Chamber of Commerce when I asked whether it was fair to represent its view as one that saw regional council as essentially a committee representing municipalities. Do you think voters in Ottawa-Carleton see the regional council, or would like to see the regional council, as something else?

1150

**Mr Cullen:** I don't think so. With the range of responsibilities regional council has, you can go through it and you can see that if you're going to create development, for example, in the southeast urban area, there are going to be tremendous implications for all the neighbouring municipalities. You can't plan on a municipality-by-municipality basis. And there are going to be tradeoffs in terms of: Where does the transitway run? What roads get widened? Who's going to pay for the services and how? All these things require decisions that involve the interplay of, simply, that urban envelope. You can't have it as a committee of municipalities, because then you'll be in into: "What's good here? Who's winning and who's losing here?" We often have that at the regional council. I'll give you a very good example: our official plan.

We had an official plan that was coming forward for approval at the regional level, and we came upon a very major issue that was going to provide transportation links from the border through to downtown. Clearly the suburban municipalities had an interest in making sure that their residents, who are commuters, have that easy access, whereas in our community we're interested in protecting our communities from runthrough traffic. You had a clash in values.

A regional council will be able to look at the whole picture and not be so stuck on what's good for the municipality of this or good for the municipality of that. Yes, we'll be parochial, because the individual representative will say, "Not through my backyard," but that's one out of 18 councillors, or two or three out of 18 councillors, and not a municipal mindset. I think that's important, because municipal interests are separate from regional interests. We've seen this as the process has evolved.

Going back to your earlier question about the member of the community association, yes. It's because our first responsibility now is to our local municipality—we spend 50%, 60%, 70% of our time there—so when someone comes from another community that's not within Ottawa, we're not going to be terribly knowledgeable. It's not going to affect our ability to do our job. We have other things to do, and it's quite true: Sometimes it's hard to keep us interested in the happenings outside, in a rural community.

How will this change, though, with a regional council? When your full-time obligation is focusing on the region and you're dealing with your colleagues day in and day out, then it's going to be much easier for that representative from Osgoode or Rideau township to be able to access his colleagues and say, "I have a problem here, and this is the way it works."

Now, among 33 councillors, it's impossible. It's impossible to find us, because we have other obligations. It's impossible to interest us, because we have our other responsibilities. But being full-time at the region and having those responsibilities being located in that building, being accessible and understanding that there's a colleague there who you're going to have to listen to because you want that colleague to listen to you will allow for that interplay of politics and allow for that particular interest to be heard and listened to.

**Mr Chiarelli:** Alex, we've had many discussions and perhaps this will be our last. I'm not so sure.

**Mr Cullen:** On this topic, I hope.

**Mr Chiarelli:** The bill, as it is presently structured, in my opinion and I think in the opinion of a lot of people, could really be a double-edged sword. Yes, you create a powerful regional government, rep by population, a streamlined decision-making process.

You talked about this government not dreaming up representation by population, but maybe it dreamed up representation of a regional government without mayors. The research people tell us that in Canada, this will be the only regional government without representation on the part of the mayors. That may be good; it may be bad.

But one of the things that really concerns a lot of people is the concentration of power in the office of the regional chair and the senior bureaucrats.

We also have in this bill a provision that takes away the powers of a board of control, which is similar to the executive committee that's there at the present time.

**Mr Cullen:** A good move.

**Mr Chiarelli:** You're doing away with the executive committee, you're putting smaller numbers, you're concentrating a lot of power in the office of the regional chair and the senior bureaucrats. Particularly, you cannot deliver and give a commitment to this committee today that the regional councillors are going to be full-time. They may very well be part-time.

Especially if that happens, I think this bill will be a very significantly double-edged sword, in the sense that you will not have the type of buffer that somebody said is provided, for example, by the Senate in the United States, a buffer to that representation by population to look after regional interests. There's legitimate concern about looking after regional interests. The mayors, in one form or another—I'm not even going to define now in what form that could be—could be a very significant countervail to that risk that might be there with a very powerful regional chair. I'd just like you to comment on that issue generally.

**Mr Cullen:** I'm very pleased to see in the bill the removal of the powers of a board of control. Indeed, there is no other municipality in Ontario that has the powers of a board of control. There is a board of control in London, but it does not hold the powers of a board of control. The powers are that if they make a recommendation with respect to money matters, for council to change that, to increase it or decrease revenue, it requires a two-thirds vote.

We had the recent incident at the regional council



where the recommendation coming from executive committee was that as a result of the social contract there be a cut to the OC Transpo budget, causing a reduction in service and an increase in fares. Regional council, by a vote of 20 to 11, sought to restore that cut. Even though it was 20 in favour of restoring that cut, 11 opposed, it lost because we didn't have the two thirds, and is quite frankly a violation of majority rule in our democratic system.

The regional chair is one vote on council. Were the mayors to retain, you would have a two-level council. You'd have directly elected councillors and you would have mayors who have another job, a full-time job elsewhere. I do not see the mayors acting as a buffer. Indeed, my experience at regional council is that by and large the mayors make their own accommodations with the regional chair and life goes on. That's part of his power base. That has been the history.

All I can say is that given a regional council of 18 plus chair, and that chair with one vote, those regional councillors are going to be held directly accountable by their electorates, and their electorates are not going to permit that one person dominate the agenda, that one person run the show. And seeing that the powers of the board of control are removed, it makes that council all that much more responsible for those activities. It's not eight people—and only five out of eight people on the executive committee—that requires 21 out of council to overturn.

**Mr Chiarelli:** You're assuming full-time regional councillors.

**Mr Cullen:** Not necessarily. I believe in full-time regional councillors, and I think it's going to be up to the electorate eventually to determine that. I don't have any problem with that. I think the responsibilities are there. If indeed regional council determines that it's a part-time salary, I don't believe that's going to last. I think that's going to go through the election, be an election issue, and I think the majority of the population will support full-time.

But your concern about the unfettered power of the chair, that's only—

**Mr Chiarelli:** And other senior bureaucrats.

**Mr Cullen:** That's only as applicable as council, the 18 who will be there, will permit it and as the electorate will permit it. If it's a laissez-faire council, voilà, but I don't believe it's going to be a laissez-faire council, because of the nature of the responsibilities and because they're directly elected.

**The Chair:** Thank you, Mr Cullen. The committee would like to thank you for appearing this morning and presenting your views.

#### GLOUCESTER CHAMBER OF COMMERCE

**The Chair:** Next is the Gloucester Chamber of Commerce. Good morning and welcome.

**Mr Jim Anderson:** Thank you, Mr Chairman. Members of the standing committee on resources development, members of the media, ladies and gentlemen: My name is Jim Anderson. I am the executive director of the Gloucester Chamber of Commerce, and on behalf of our

chamber membership, which represents the interests of the 3,000 members of the business community of the city of Gloucester, we have been mandated to present to you today our chamber's official position with reference to the proposed Bill 143 which is now before the Ontario Legislative Assembly.

Mr Jacques de Courville Nicol, our first vice-president, will be making our presentation this morning. Jacques, if you will.

**1200**

**Mr Jacques de Courville Nicol :** Notre présentation de ce matin sera faite principalement en langue anglaise pour des raisons de temps et de façon à pouvoir rejoindre le plus grand nombre de personnes possible ici aujourd'hui. Par ailleurs, il nous fera grandement plaisir de recevoir et de répondre à toutes les questions qui pourraient nous être adressées en langue française, une fois notre présentation terminée.

Our members suffered a great deal under the 1981-82 recession, and their situation has gone from bad to worse in this second, 1989-94 and still ongoing, seemingly endless recession, the second devastating recession in less than a decade for our membership. Our members have had to endure and ultimately pay for, through their tax dollars, the Mayo report, the Graham report, the Bartlett report, the Price Waterhouse report, the Coopers and Lybrand report, the Partners for the Future report, the Kirby reports, and the rejection of Bill 77 and now Bill 143. After all of these reports and legislative bills, not only are we not better off, but now:

(1) We are sinking deeper and deeper into urban and suburban divisions, pitting urban Ottawa against its suburban neighbour cities.

(2) We are pitting our mayors against the region and the province in what has now become their fight to protect the very mandate which they were given by their community ratepayers through our democratic election process to represent and defend their community's best interests at the local and regional municipal levels.

(3) We are dividing the region against itself:

(a) with our regional councillors fighting for position, better income, bigger offices and broader mandates;

(b) with our suburban mayors fighting to continue to represent their local communities at the regional level in a democratic, effective and appropriate way;

(c) with our suburban police boards fighting against the Ottawa urban police board for the right to continue to serve and protect their local communities in their traditional effective, personal and community-minded ways;

(d) with our suburban chambers of commerce and business communities fighting their urban counterparts to ensure that they can continue to have a major input in their local community's economic development and to avoid having to pay for more government waste, bigger and bigger public expenditures and uncontrollable government growth, as exemplified by the downtown Ottawa \$150-million regional government headquarters and the \$100-million Ottawa city hall monolith, both excellent examples of monuments built with taxpayers' dollars to reflect the irresponsible fiscal attitude of

urbanites who must believe that you can spend for ever if you're big enough and sophisticated enough to get away with it; and finally,

(e) with our suburban taxpayers who do not wish to be placed in the same predicament as the downtown Ottawa urban taxpayers who have allowed their elected municipal representatives to spend as if there was no tomorrow, and who are now saddled with bigger, more costly, less flexible and certainly less accountable local and regional government. What a mess.

Our members are deeply fed up with this continuous stream of "top-down" expensive and not very useful commissions, inquiries, reports and proposed legislative bills which too often do not take into consideration the serious comments and suggestions of the parties consulted and which take up a great deal of energy, time and money which could be put to better use. Bill 143 is one of those bills and only serves to threaten our daily lives and contribute to the growing instability, uncertainty and despair of our local communities and businesses.

Our preference would be to ask you to please go away and leave us alone. However, since we know that you won't do this, we have the following comments to offer:

(1) The public record will show that the Gloucester Chamber of Commerce was strongly against Bill 77, and we wish to state that we are equally against Bill 143.

(2) The chamber believes that municipal politics, education and the rights of francophone taxpayers to have access to their own school system are three separate issues and that, as such, they should not have been incorporated within the same bill.

(3) The chamber believes that the use of omnibus bills such as Bill 143, where entirely different matters are dealt with in the same piece of legislation, unnecessarily confuses the public, detracts from the real issues and creates an extremely poor piece of legislation.

(4) The chamber feels that Bill 143 is insulting, provocative and punitive for the francophone community of the region in that it offers the francophone minority the option of either supporting Bill 143 and reducing their chance of gaining adequate representation on the new regional council, or alternatively of defeating the bill and going back to their ongoing struggles between the plenary board, the Catholic sector board and the public sector board for a fair share of the education dollars, facilities and resources. We do not believe that the francophone community should be held at ransom in the current political battle which deals mainly with regional reform.

(5) The chamber is concerned that the proposed regional ward structure will allow for anyone from anywhere in the region to run in any of the regional wards, regardless of the fact that the candidate may or may not reside in the said regional ward and may or may not represent the interests of the same said ward. We understand that this is a major problem and a major source of aggravation during elections to regional council in the Calgary area.

(6) The chamber is deeply concerned with what now appears to be the planned progressive destruction of our

11 existing municipalities in favour of a future single-tier regional government. We believe that municipal governments are the ones which are the closest to the people and that as such they must be preserved if true accountability is to be maintained.

(7) The chamber is extremely concerned with the proposed unilateral decision of the government to exclude local mayors from regional council. To the best of our knowledge, there is no other example of such a regressive decision in other regional governments in Canada. We are led to believe that this is a punitive decision on the part of the government to bring our local mayors to their knees and show them who their boss really is in Toronto. It is sad and unfortunate that this should be, for we strongly believe that no one knows their local community as well as local mayors. They are the ones who really know and understand what the people need and want. They are and remain the first and closest link between any existing levels of government and the people. To remove them from regional government presents a serious threat to our democratic way of life.

(8) The chamber is deeply concerned with the public's security and more specifically with the public statement made on October 13, 1992, by our Gloucester police chief, Lester Thompson, when he stated clearly for the public record that a regional force was not only unnecessary but would be more expensive. Chief Thompson also said that having a single regional force would move 140 OPP officers out of the region and that the region would then have to turn around and hire 200 police officers in order to give Manotick, Cumberland, West Carleton and other municipalities 24-hour service. At an average salary of \$70,000 per year per police officer, times 200 officers, this would represent an immediate extra cost, let alone the other costs, for the region of \$14 million, which local taxpayers would have to pick up.

(9) The chamber is deeply concerned with the major economic and financial implications of the proposed regional government reform under Bill 143. We are concerned about the huge costs that this reform will trigger, probably anywhere from \$12 million to \$29 million in one-time costs plus annual expenditures of \$25 million to \$77 million, according to the Price Waterhouse August 27, 1992 study, and the increase in taxes which would be between 5.5%, at the low end, to 16.5% that will be required from local taxpayers to integrate administration, services and capital structures as a result of this infamous Bill 143.

#### 1210

(10) The chamber is deeply concerned with the choice that the government has made to go ahead with major and costly structural changes when less costly administrative changes could have been achieved through simple bilateral negotiated improvements and reallocation of duties and responsibilities between local and regional governments.

Before ending our presentation, we would like to offer the following recommendations.

Our first recommendation is obviously to maintain the status quo and the existing arrangements as they are throughout the Ottawa-Carleton region, particularly at a



time when everyone is totally preoccupied with their own survival in this punitive recessive economy.

Our second recommendation is to let our regional government and our 11 municipalities work out satisfactory accommodations and structural arrangements between themselves if and when they feel that changes are required, and if and when they solicit and obtain the approval and support of their constituents to go ahead with such changes.

Our third recommendation is that changes, if any, should be directed on a priority basis towards:

(a) Reallocating regional services: that is to say, the reallocation of "hard services," which are not usually personalized, therefore not close to the community, do not usually vary from one local community to the next and over which individual members within a local community have little or no control.

In our view, such regional services should include regional administration, planning services, bilingualism, regional roads, regional snow removal, garbage removal, transit services, sewer services, regional water services, electrical services, environmental services, purchasing services, marketing and promotion services, all services that can be performed at the highly centralized area without having a direct impact on the local individuals within the local communities.

(b) Reallocating municipal services: that is to say, the reallocation of all "soft services," which are usually very personalized, very local, specifically responsive to the individual or group needs of a given local community, usually different from one community to another, and over which local community residents usually have a direct interest and a direct input.

In our view, such local municipal services should include—I won't list them all; you have them here—administration, economic development and planning and so on.

Our fourth recommendation is to limit the number of elected representatives at the regional level to the participation of the 11 elected municipal mayors and to the single elected regional chairperson, accompanied by their non-voting CAOs and other support staff as required. In other words, that's what the population is voting for. These are the true representatives of this region. This is how we could reflect the various interests in the region best rather than have everybody in a general regional melting pot and losing contact with our local requirements.

This, in our view, would reduce the costs and the number of elected representatives at the regional level to a maximum of 12 members from the current 33 and would make regional council a true executive council of the municipal mayors presided over by a regional chair elected at large.

Based on the language of Bill 143, and given the potential negative impact which this bill in its present form is likely to have on our city, our region and, to some larger extent, our province and our country, we wish to restate our formal opposition to Bill 143 in its present form, for all of the reasons mentioned above and

for many others which time does not permit us to cover.

We thank you for your time and your patience in listening to our presentation, and we welcome any questions you may have for us.

**Hon Ms Gigantes:** I've negated what the translation people are doing for me, thank you.

Mr de Courville Nicol, you have two recommendations for us which are, in some senses, overlapping at least: your first, which is to maintain the status quo at regional council, and your fourth, which is to change representation at regional council so that the only representatives on the council would be the mayors elected at their municipal base. Which is the preference? Have you put them in order of preference?

**Mr de Courville Nicol:** No. Given that we've not been too successful in obtaining or even gaining the ear of government representatives in trying to discuss this whole thing, we are, you can appreciate, a very frustrated group of people. However, no, the recommendations stand on their own.

Obviously, if you're going with the status quo, it means that you're not going to do anything else. If you're going with the last recommendation, we feel that's the one that is the least costly, the more susceptible to being effective, the more susceptible to represent the political interests of the region and reflect that political interests and possibly the most expedient one, instead of—I'll give you an example, for instance.

When the Honourable Ed Philip came to the regional council to present what was to be Bill 143, he spent about an hour and a half before—we were in the public seats and councillors and regional representatives were around the table. Out of 33 regional councillors, four people got a chance to talk: Mayor Holzman, two other members from Ottawa and I believe Madame Villeneuve from Vanier, who was cut off very quickly from her comments because she was trying to represent some francophone interest in française and I guess the message didn't get across. I said, "If this is an indication of what will happen under the new council, God forbid that anybody outside of the regional gang will have any input into what their particular community wants."

I have a very, very strong concern. I think our members have a very, very strong concern. Our business community has a very strong concern because the bill also appears to be pulling the economic development responsibility out of the local level. What will be left, for instance? Will Gloucester wait until regional council decides to move or not move? These are some of the concerns that we have.

I also want to point to one other thing and I think you will relate to that, which is the little guy on the street. I have a sister who ran for the poorest ward in the Calgary area, and she was devastated and called me and said: "You won't understand what went on. We had 27 candidates running for that one regional ward. Two thirds of those candidates were from areas outside of the ward and in fact the one who won this ward was a particularly wealthy individual who had a particular agenda and managed to get in there and win the vote because of that



27-person division." Imagine if this happens in the national capital region of Canada. This will be a disaster.

I'm saying also, we keep throwing this rep by pop concept around. I have another problem with that. When Mr Brown, our past honourable Brown, at the beginning of our great country, introduced the concept of rep by pop, the francophones were a majority and so it was said that this was not to be, we were not to have rep by pop.

Today, when the francophones are a dependent minority, all of a sudden this is a concept that's resurfacing and it appears to be the end-all and the be-all. So I'm saying again, if you introduce this concept where the majority, coming from wherever within the region, is allowed to basically eliminate any kind of francophone representation on regional council, you will have done a great disservice not only to this region but to your province and to your country.

I say generally, the bill is bad. It's not bad because you haven't put the efforts in it, but maybe it's bad because there hasn't been enough consultation and there hasn't been enough input from the people. I implore you to put this bill to the side and come up with something that will be more reflective of what this region needs and wants and should get, because it's a model for the rest of Canada and the rest of Canada will be looking at what you're doing with this region.

So I'm saying yes, if you're looking at the last of our recommendations, if you want my preference, but again, I'm not sure that's a—these are comments that have been brought by our members, but certainly that will be my preference, to have a region that regroups the chair and the 11 municipal mayors. It seems to me that will be a lot more effective. You'd have a lot less councillors around the table wasting public money and you'll also have probably a better feel for what's happening throughout the national capital region.

**Mrs O'Neill:** Jacques, again, you have done your very best right from the beginning to help your constituents and members understand what's been going on with the regional government. I know you've been struggling with this for almost two years.

You're the first and only group, if I remember correctly, this morning that brought forward the mix that we have with the school boards being thrown in with now what has become an omnibus bill. I find the extraordinary jackbooting of opening the Education Act in this manner quite unnecessary. I would like to ask you why you think it was done.

**Hon Ms Gigantes:** Mr Chair, on a point of order: I don't think we need to take that kind of language.

**Interjection:** She should withdraw the remark, for sure.

**Mrs O'Neill:** "Jackboots" is not unparliamentary; we use it all the time, and I'm sure that you have used much different with me. In any case, I would like to ask—

**The Chair:** If I might caution you, Ms O'Neill, please use language which will not heighten the emotions of people in the room when you're asking your question. I'd appreciate it and so would others.

**Mrs O'Neill:** My question stands to Jacques.

**Mr de Courville Nicol:** Madam O'Neill, if I may reflect on that, I think the concern the francophone community has is that it's like showing the dessert and having a huge glass window in front of it. You really want to get at that educational bill, you really want to get at that change, you really want to get at that frustrating structure that we have, and unfortunately you can't because you've got this other thing, which is not the dessert but it's a garbage pail, and the garbage pail stands in the way of your dessert.

That's the kind of bill we have. On the one hand, we would like to be supportive of that part of the bill which deals with the education changes, and I think we have to be very clear on that, but on the other hand, we're faced with that regional reform problem, so we're in neutral.

As I say, the community is extremely frustrated because this is being done. We don't know the agenda and we certainly don't want to imply that the government has an agenda behind this, but for whatever reason and for whatever purpose that this bill was put together the way it is put together, it is being perceived by francophones as insulting and punitive, largely because you have an opportunity to move, but it's almost like to move you're going to have to sign in blood in order to get that little restructuring that we're asking for within the board of education.

It's a very sad day for francophones in this area when we have to face this kind of thing where, in order to get a little bit of release in the pressure that we have in our educational organizational structure, we have to endorse a regional reform bill which we find to be extremely flawed. So there you go. You have my opinion.

**Mr David Johnson:** I can only say to the chamber of commerce for Gloucester, you've been taken by breath away. This is a very forceful deputation, and I certainly thank you for it. The comments that you made, I think, are bang on with regard to omnibus bills. You brought to my attention the impact on the francophone community, which I can well understand in terms of how you've explained it. The unfortunate aspect of pitting people against people, groups against groups—I think that's a most unfortunate outcome.

From a positive point of view, the suggestions that you've put forward in terms of reallocating—instead of looking at some complicated, expensive structural change, just sitting down, applying a little common sense, negotiating and reallocating the services at the regional and municipal levels to avoid duplication, to offer services in an efficient manner—that's the kind of thing a business person would come up with and that's the kind of—

**Mr de Courville Nicol:** We try.

**Mr David Johnson:** —thinking we need more and more, not only in this province but right across the country. So I thank you for it. I don't know what hope there is that we can go in that direction, but I can only say you've made some tremendously commonsense points of view, and my congratulations to you.

**The Chair:** I'd thank each of you for appearing here this morning. We are in recess until 1:30.

*The committee recessed from 1224 to 1334.*

**The Chair:** I call the committee to order. Ms O'Neill, you had a point just after recess at noon.

**Mrs O'Neill:** Yes, Mr Chair. I'd like to present to you and to the clerk two formal requests in writing from umbrella organizations. The one is actually a provincial organization, and that is the organization of francophone teachers, who definitely have a stake in the bill, the part of the bill that refers to the education of the French-language students in Ottawa-Carleton. They would very much like to present on Monday in Toronto. I hope their request will be given due consideration.

The other is from a group of seven community associations in Ottawa-Carleton, in the city of Ottawa, that have difficulty with the ward boundaries that have been assigned to them. They would like to present as a group. This is another umbrella organization, in my opinion, and they of course would like to be fitted in tomorrow on our agenda.

I feel that both of these requests are very legitimate. They're umbrella organizations, they're trying to accommodate our very fine time lines and I hope they will be given every consideration by both yourself and the clerk. I'll present those to you in writing.

#### CITIZENS FOR FAIR TAXES

**The Chair:** The first scheduled witness this afternoon is Keith Dowd. Good afternoon and welcome. You've been allocated 20 minutes for your presentation.

**Mr Keith Dowd:** Thank you, Mr Chairman. I'll even read the little brief heading that's inserted here. This was a trick I learned from a long-ago friend of mine named Earle Peach, well known locally, if not in Toronto. It says: "I don't make jokes. I just watch the government and report the facts."

**Hon Ms Gigantes:** Earle Peach is my father. How are you, Keith?

**Mr Dowd:** This brief is being presented on behalf of the Citizens for Fair Taxes. This group is from over 100 homes and families, about 250 taxpaying adults. It has been working for more than two years, since the imposition of market value assessment, to restore some sense of fairness to our taxation system. When we talk of fairness, we are not just concerned with reducing the high level of taxation that is pushing us out of our homes; we are also concerned with the need to ensure that taxes are being spent in a manner that gives us value for dollar or cost-efficiency.

To introduce our position to various political levels, we have presented briefs to the provincially appointed Fair Tax Commission, the Bourns commission on local school boards, the regional panel on salaries for directly elected regional councillors and the Gloucester city council on double taxation. We have held all-candidates meetings for federal elections and plan the same for provincial and regional elections. We may also enter into the election of school trustees, since in this region we have more trustees than most provinces have politicians in their provincial legislatures.

As a citizens group, we avoid aligning ourselves with any political party. We take the position that it is our task to ensure that our members and other citizens are

informed of the facts surrounding questions of public concern. Unlike governments, we are satisfied that given an informed electorate, we do not need to fear the decisions they will make. In this region, possibly the most governed region in Canada, we have had many opportunities to see government decision-making in action.

I use the word "fear" deliberately at this point. The process whereby Bill 143 has been brought to this point tells me that the government fears the result if the electorate were to be properly informed of the consequences of passing Bill 143. I note that they have limited debate by closure in the second reading and have limited debate on the third reading to one hour. I note that the amount of local publicity given to these hearings today and tomorrow is something less than that given an old movie in a neighbourhood rerun movie theatre. The government's haste, evident this week, had been lacking all last summer and early fall. The data which Citizens for Fair Taxes have been using in order to study of the ramifications of this bill have been available for many months. You could find them, with persistence.

One clue to the fear the government has about this bill is the manner in which the amendments to the regional government have been tied to a relatively unrelated item, the French-language school board amendments. If you accept one, you are required to carry the other. This rather devious method of pushing through an enactment smacks of lessons learned from an undesirable element of the republic to the south of us.

#### 1340

Listening to the debate on Bill 143 has been tedious and remarkably unenlightening. Challenges to the bill have been repetitious and not well-founded on the information available to members of the Legislative Assembly. The form of government outlined in Bill 143 does not follow any of the recommendations of the many studies done in Ottawa-Carleton over the last many years. It is possible to trace some parts of the bill to a particular report, but unity of concept has been lost entirely and the final form of Bill 143 has not been placed before the citizens of this region at a time when significant study and input was possible. This hearing is the only form of consultation on Bill 143 that had been made available to us, and the deadline on debate and passage of the bill as announced by the minister seriously affects the credibility of the work of this committee.

Within Bill 143 there is no provision for the reduction in the number of elected officials in the region and its municipalities. In effect, the opportunity to make savings has been lost. Actually, there are already moves afoot to increase the cost to the ratepayers of the region. Consider that the total cost of salaries for elected officials plus the cost of their support office staff might be regarded as an envelope. As far as the taxpayers are concerned, this new structure in regional government will have no impact on them in matters of the services they receive or the efficiency with which they will be delivered. There is no improved benefit to the taxpayers. Therefore, there can be no reason for growth in the size of the envelope from which these services are to be paid, although individuals



might draw salaries and costs from the envelope in a new distribution system.

I anticipate nods of approval from thoughtful persons who hear this argument, but just these last few weeks, municipal councillors are already slicing up a larger pie with a view to enhancing their income without thought of the taxpayer. Ottawa councillors are preparing an argument that the new councillors there should receive about a 50% increase in salary and the same in office support costs. This is in spite of the fact that a significant portion of their current responsibilities have been taken from them and placed before the regional council. They argue that with only 10 on the new council, they will have more ratepayers to serve. An examination of their work in the recent past will soon show that they have not confined themselves to policy and legislation but all too often are messing about in the administration of the staff. If they lack confidence in their executive officers, they should replace them, not do their work for them. I am tired of hearing them debate the colour of bricks to be used in paving a pedestrian crossing with the same intensity they devote to the restoration of a major historic building.

Bill 143 has a number of permissive areas in it that are dangerous to the continuing economic survival of taxpayers. There has been no cap placed on the costs of the great number of elected officials who will continue to function, nor on the perks and office support costs that they will give themselves.

I am even suspicious of the outcry about removing the mayors from regional council. Can it be that they are looking at the more than \$21,000 regional salary they will be losing? I know of no other governmental structure outside of regional government where by being elected to one office you become automatically a member of the next higher level of government. Being elected to the provincial Legislature, did Bob Rae expect to become automatically a member of the federal Parliament? I don't think so.

Another area that is quite permissive and carries a major financial burden is the situation in the city of Ottawa. It is easy to understand why they should tend to support these changes. They carry the liability of an antique sewer system that must be renewed. The potential is for assigning the costs, estimated at \$750 million, to the newly structured regional council which has been given responsibility for the sewers. That places the costs directly in the hands of the taxpayers across the region. The debate about installing storm sewers while replacing the old sanitary sewers is ahead, and there is no guidance or help offered in Bill 143.

Further, there is the matter of the unfunded liability of the Ottawa police pensions. Pensions are often unfunded and there has been no problem with it, except when a transfer of responsibility must be made. Then it must be regarded as a liability. Under clause 32.4(1)(c) of Bill 143, "The assets and liabilities of the area municipalities related to the provision of police services become assets and liabilities of the regional corporation without compensation." This means that if one city has a fully-paid-for police headquarters, they lose it; if another city has a

debenture-financed police headquarters, they are relieved of the debt because it will be carried by the regional taxpayers at large. The police departments of Gloucester and Nepean are both using the provincially supported OMAPPAC records and a car-despatch system, a sophisticated computer operation that enables them to exchange information with electronic speed. The Ottawa police use a file system that might have been devised a week after the invention of paper.

The Marin study into the implementation of regional police service was unable to be very precise as to the costs. Others say it would be between \$11 million and \$15 million. The question of providing policing to two such diverse areas as Rideau township, a rural area, and downtown Ottawa was not discussed. According to the actual costs of policing in 1991, the cost per capita of policing Gloucester was \$111, Nepean \$116, Ottawa \$180. If established as an operating system, it was estimated that in 1992 a regional police force would increase the cost of policing by \$7.2 million annually. Aside: I'm so old that a million dollars still seems like a lot of money. There would not necessarily be an improvement in the quality or quantity of policing. If there is no improvement in service rendered to the taxpayer, why should the taxpayer be expected to pay more?

Someone in Queen's Park want us to have a different regional government structure than we have now. That someone has been very selective in listening to the taxpayers of Ottawa-Carleton. There is no unanimity locally about this question, because there is no adequate source of information about the financial and social costs that will result. Citizens for Fair Taxes are not opposed to Bill 143 merely because it is a change. We have often proposed changes far more radical than those embodied in this bill. When Bill 143 has been studied enough that the ticket price can be closely established, then our association will have no difficulty accepting the decision of an informed electorate.

The government has been severely remiss in not undertaking an active campaign to make the facts and figures known to the taxpayers of Ottawa-Carleton. There must be time provided to activate this important part of our democratic process. This committee must now carry this message back to the minister and the government.

**Mrs O'Neill:** Mr Dowd, thank you so much. I think I have met you in other milieus.

The informed electorate that you keep reminding us of has certainly been brought to our attention many times today, and I can't for the life of me understand why responsible politicians do not realize that's their first duty.

I am very pleased that you have brought once again before us that we won't have fewer politicians, we'll have more politicians, and that the politicians whom I'm hearing and reading about in the media can be quite self-serving in talking about part-time/full-time job and the remuneration that goes with that.

I have been accused in the House on this bill of being unable to change. You know me well enough to know that I've been over 20 years in public office in this area. I have changed on many occasions. I love the phrase you



put in your brief: "opportunities lost." This was a time for real improvement. We aren't getting it in Bill 143, and you're right.

The financial and social costs have not been put on the table at all, and I think that it's very important to balance those two that you've mentioned. I have no questions for you. I am glad you have used the term, especially in 14, "someone in Queen's Park wants to have a different regional government," because it's not very many at Queen's Park who want this. It is "someone."

**Mr Dowd:** I agree.

1350

**Mr Daigeler:** In terms of the membership of your group, does that include people from Ottawa as well?

**Mr Dowd:** It includes a few people who live in the area, particularly along the Rideau River, but who have businesses in Ottawa or are employed in Ottawa, yes. We don't have boundary fences that require passports to get through to go from one municipality to the other—yet.

**Mr David Johnson:** Mr Dowd, thank you for an excellent brief. Looking through this carefully, I'm of the mind that you're really directing some of your concern and criticism all around the table here—you've obviously followed the debates at Queen's Park—and I think rightfully so. You've raised a number of issues.

Towards the end, you indicate that you really haven't been able to be informed, to get all the information, particularly the financial information. The government has said that the Kirby report has been issued and it's had—I don't know how many the parliamentary assistant said—meetings and debates on the Kirby report, and the Bartlett report before that etc. The message the government is trying to convey is that the people have had all sorts of information about this whole situation, and they've had enough and it's time to make a decision. I wonder what your response to that is.

**Mr Dowd:** My response is, does Bill 143 then embody the Kirby report recommendations?

**Mr David Johnson:** The answer is no.

**Mr White:** Let him answer for himself.

**Mrs O'Neill:** He's very capable of doing that.

**Mr Dowd:** I don't know if I thank you for that one.

The point is that, yes, there have been a number of studies. Each one embodied a philosophical approach to the study as well as very practical consequences and so forth. But this piecemeal approach isn't appropriate. If this is to be considered a *mélange*, an assembly of parts, all right then: As it doesn't have a unity of concept behind it, put it on the table so it can be put into shape, so it has a unity about it. I don't think it has. I think it's a piecemeal thing.

I return to a statement I made earlier in the brief. We are not taking a political position. Yes, I took a shot at opposition members as well as government members. We are not identified, and have worked very hard not to be identified, with a political party particularly. We're working for the taxpayers regardless of their political orientation.

**Mr David Johnson:** Do you think, on behalf of the

taxpayers, that bills like this—well, just about all bills and regulations that come forward—should have some kind of economic analysis with them, just as a basic necessity, to show what the impact is?

**Mr Dowd:** Absolutely. It doesn't have to be embodied in the bill necessarily but—what's the word?—white paper, that's used in a local institution up there on the river. Having read a white paper that's well written, you would almost, without reference to members of Parliament, know what the bill is going to embody, because "If it carries this philosophy and it's taking into account these particular concerns, the result can only be this, this and this." It follows as a procedure in logic, which I'm sure must be available to somebody else.

**Mr White:** Thank you very much, Mr Dowd. I very much enjoyed listening to your presentation. When you mentioned the people in Queen's Park, I'm aware that we've had Municipal Affairs ministers of all three political stripes who have been supportive of this bill.

**Mrs O'Neill:** Give us a break. This bill has only been introduced.

**Mr White:** The issue you bring up that I want to bring to your attention is the issue about the regional council and the cost of the envelope there for regional council that I think is very important and I hope your group will pursue. As it presently stands, there was some budget struck recently by the present regional council in terms of the office expenses and the assorted sofas and furnishings, which in my understanding is quite outlandish in expense. I certainly hope your organization will pursue that vociferously. That of course is the regional council as it is presently composed, not as will be envisioned. Regardless of whether it's the present one or the one in the future, I hope and feel sure that your group will not let them off the hook.

**Mr Dowd:** But you people are allowing this to continue by the nature of the legislation you're proposing. You're not putting any kind of cap or any kind of guideline for these people to follow. You're letting them go any direction they want. If we try to do anything by nipping at their heels, they turn around and say: "But look ahead. The legislation has given us this power, so the province must want us to use it."

**Mr White:** You're right in terms of responsibility: They are accountable primarily to the local electorate. It is, however, the local regional body which, as it presently exists, as it has been set up for the last 25 years, has put that budget into place. I certainly hope you will not let them off the hook.

**The Chair:** Thank you, Mr Dowd. We appreciate you taking the time to come down and present your views before the committee this afternoon.

OTTAWA-CARLETON BOARD OF TRADE

**Mr Willy Bagnell:** Mr Chairman, my name is Willy Bagnell. I'm the president of the Ottawa-Carleton Board of Trade. My associate is Mr Potechin, who's a past chairman and a future member of our board of directors of the Ottawa-Carleton Board of Trade.

Honourable members, distinguished guests, ladies and gentlemen, it's a pleasure to address your committee

today. The Ottawa-Carleton Board of Trade is the largest independent business organization in our region.

The board of trade has made no secret over the past few years of its goal of one-tier government. A regional council and 11 municipal councils do not represent the taxpayers' best interests. The extra taxes we in the business community pay for two levels of government is excessive, to say the least. As each of you is aware, business has suffered a tremendous blow during this recession. Only the Depression of the 1930s equals the economic strife we have felt.

It has become increasingly apparent that the Ottawa-Carleton business community can no longer afford the taxes or the inefficiencies of two levels of government. The legislation presently being discussed regarding regional government reform in Ottawa-Carleton is a valiant step towards one-tier government. Bill 143 is a positive step for business and democracy.

There has been much debate over some key issues in the legislation. The economic development shift to regional government for land development is a wise move. There can be no doubt that a single body developing available land will make it easier for business to work with the government on development projects. Some local politicians have argued, however, for a compromise where, under special circumstances, the municipal government could be given authority to develop land. We feel that the regional economic development officials already have established links through the municipal advisory committee of the Ottawa-Carleton Economic Development Corp. These links and some good old-fashioned communication and horse trading should be enough to allow those links and proper communication to exist. We do not need two groups of bodies doing the same thing. It costs too much.

The issue of 11 mayors not sitting at regional council has also provided some exciting debate. Some of the mayors feel that this will adversely affect the municipalities because they won't be there to influence council's decision. The fact that we'll be directly electing 18 councillors covering all 11 municipalities seems to have escaped them. There seem to be some parochial interests emanating from some mayors. As long as the lines of responsibility are clearly defined, the need for mayors at regional council table is minimal.

The amalgamation and rationalization of the three police forces into a single regional police force is indeed a bold but logical step. The progressive move has the potential to lower taxes for the citizens of Ottawa-Carleton while still providing an excellent level of service. There is no need to assume that standards that have been set by the city of Ottawa will have to be adopted by a regional police force. Standards have to be set that make sense, that the taxpayers can afford. We can no longer buy a Cadillac if the lease payments we can afford are for a Honda.

Frankly, I have to raise a caution flag here for politicians. The residents of Ottawa-Carleton will not look favourably on politicians who play games with the police amalgamation. Standards must be set within the fiscal limits of our taxpayers and in consultations with residents

and business leaders. Playing politics with public safety would be a huge mistake. It's the sincere belief of the Ottawa-Carleton Board of Trade that a region-wide police service is in the best interests of the residents and will save tax dollars.

#### 1400

The regional municipality of Ottawa-Carleton has been waiting a long time for progressive change that most of Bill 143 will bring. However, we are disappointed with the education portion of the legislation. The board of trade has long been a proponent of fewer school boards. I don't think it's a shock to anybody that that's the position the board has taken. The costs today are prohibitive for running the school boards we have. A tremendous portion of the costs of these schools is paid for by the business community through its taxes. As time marches on, we feel the direction the government is leading the school boards towards is very dangerous. There can be no doubt about the importance of education, but the duplication existent in Ottawa-Carleton and the ensuing waste is awful. How much longer are we to stand for the inactivity of Queen's Park on this issue? Surely common sense must prevail and the rationalizing stop. We need less school boards.

The final chapter of the Bill 77-Bill 143 saga has got to be over with very soon. We go to the polls November 3. The citizens of our region need time to digest and understand and evaluate the performance of the politicians who are presently in office who are going to run again. We need time to understand this and then we have to cast ballots. We urge you to move forward on this bill right away.

**Mr David Johnson:** I thank you very much for your deputation. I must say, I agree with the objective of the board of trade in terms of reducing the cost of government. It clearly comes through this.

I question whether some of your assumptions may lead to that, though, but I will say that from my experience this is a very real and onerous problem, undoubtedly not only here in the Ottawa region but certainly in Metropolitan Toronto. Having discussed this matter with the Board of Trade of Metropolitan Toronto, it has identified as one of the most critical costs in terms of the business community in Metro Toronto the local tax, the municipal property tax, and the education component of course is the most serious aspect of that, but the regional and local aspects as well. They have impressed this upon me over and over again, that something has to be done, and I think you're conveying that same message here today.

However, I want to direct your attention to—I imagine you've read the Price Waterhouse report that was commissioned.

**Mr Bagnell:** I've read so much stuff on this that I'm really sick of it, frankly, but life goes on.

**Mr David Johnson:** Yes, life goes on. The Price Waterhouse report came to the opposite conclusion that you've come to, in that it indicates, just quoting from the first page, "Our assessment is that the one-tier government"—and you're clearly in support of that possibility—"would increase annual expenditures of municipal



government in the region by \$25 million to \$75 million." That would be each year, and then there would be a one-time implementation cost. That would actually, in their view, put taxes up and be counterproductive, in a sense, from what you're hoping and I'm hoping as well. It would out taxes up by 5.5% to 16.5%. You obviously don't agree with their assessment. Can you give me some of your thoughts?

**Mr Bagnell:** The Price Waterhouse report summarized based on assumptions that we consider to be invalid. The assumptions were that the standards that were set in forming a one-tier government would be set by the highest level, in whichever municipality held that highest level, which means the highest cost.

That's not necessarily the case. If I can use a hypothetical scenario, if you have one library for every 10,000 residents in the city of Nepean, and you have one library for every 25,000 residents in the city of Kanata, who's right and who's wrong? Do we have to set the highest standard, or do we set a standard that is acceptable to the taxpayer because they're paying for it? We tend to view the taxpayer as a shareholder. I've been to a few shareholders' meetings in my career, and if the shareholders aren't happy they usually tell their board of directors by not voting them in again.

In this case setting the one-tier government level and increasing taxation is not reality, because we can't afford to increase taxation, we can't afford to increase the level of services we're offering, because quite frankly they're not required.

**Mr David Johnson:** I would hope you'd be right, and in a better world than we live in I think you would be right, but I'm just not sure. Having been on the inside, I know there's tremendous pressure on elected people to speak up for their citizenry.

Take the issue of ambulance services, for example, in Metropolitan Toronto—very costly: Some \$60 million a year I believe is the cost of the services. Over the course of time, there's been a hue and cry to give every corner of Metro its exact same share of the services. It didn't start that way. There were uneven services maybe reflecting different needs or whatever, but that's happened.

My suspicion is, contrary to perhaps both of our hopes, that this would happen in police too here in the Ottawa-Carleton region. Over a period of time, in a one-tier system, if everybody's paying into the same tax pot, there's going to be a cry that everybody should get the same level of service, and that would automatically drift the service up to a more expensive level. I'm afraid that's what could well happen.

**Mr Len Potechin:** I'd like to draw to your attention that when Dr Mayo did his original report on regional government, I was involved at the Ottawa board of trade level. Dr Mayo publicly acknowledged that it was a toss of a coin as to which way he would go. Dr Mayo indicated that there would be one police force, one fire department—not a fire department that won't cross a border because it's not their jurisdiction; and we've got fire stations on both sides of a street. There'd be one planning branch. I don't think that applies today.

I happen to be the co-chairman of Partners for the Future, which was indicated recently, and we had a number of public hearings, many public hearings, far more than people realize. We received from all walks of life the same indication: that 11 municipalities were too many, that seven boards of trade or chambers of commerce were too many, that seven school boards were too many, and we had to get together and rationalize. If we had one board of trade in the area with separate municipal affairs committees, it would be far better, and then we could combine on provincial affairs and finance and taxation and all these other things. If we had one school board with separate divisions in that school board, the administration would be a lot better. We heard that from the general public of the city of Ottawa and Nepean and all the other areas in our municipality.

You see, when anybody from this area goes to another city, they don't say, "I come from Cumberland." They say, "I'm from Ottawa." If you look at the cards of the Ottawa-Carleton Board of Trade, it says "Metro Ottawa" on them. When we market the area, we do that. Well, why can't we get on with the job and complete it?

**Hon Ms Gigantes:** I want to follow up on the school boards, which is probably one of the flaming issues of Ottawa-Carleton politics for the last several years, and ask about your response to the Bourns report, which was created as a follow-up to the work that Mr Kirby had undertaken as a commissioner. I don't know if you had an opportunity to take a look at his recommendations and to see the proposal that's embodied within Bill 143 as part of his recommendation on cost saving, which was to remove a layer of school board operation which had become useless, in effect.

**Mr Bagnell:** The Bourns report made a lot of sense in some areas, but in my opinion and the opinion of the board, it didn't go far enough. This is 1994. In 1974, I graduated from high school here. There were two school boards at that time and there was not public funding for the separate area, and then Premier Davis came along. The fact remains that in this day and age, as we create more organizations that are publicly funded we need to raise taxes to fund them, so the people who own the homes and buy things pay it, and those are the citizens and the businesses. We just can't afford it any longer.

If you look at how business and community associations, hospitals, universities govern themselves, they don't create new companies every time they do something that are run by a completely new executive. They normally create a holding company that's run by one guy, and he's the same guy who runs the parent company. They do it for taxes or for whatever, but they don't have to have six of this. There are hundreds of examples of this in the business community and in the not-for-profit area through charities and fund-raising associations in this country, in this province and in this region.

1410

**Hon Ms Gigantes:** Did you think it a reasonable proposal, as Mr Bourns framed it, that there be an attempt to harvest the savings possible through amalgamation of services as an alternative and a test of the will to reduce expenditures and provide an integrated level of



service where common services made sense as opposed to leaping directly into an amalgamation of school boards?

**Mr Bagnell:** I think it's a step in the right direction. But I learned to swim at the end of a dock on the end of my father's foot and I didn't suffer as a result of it.

I think we have to leap sometimes. We make a leap of faith when we vote, because most people who voted for each of the honourable members here today didn't know you personally, stood on faith when they struck the X on the ballot next to your name that you would live up to your promises, live up to the ideals that you put forward in your political speeches, and then you went to Queen's Park to represent their interests.

**Mr Chiarelli:** I appreciate your comments and your brief. I think it helps to highlight part of the problem why the debate now is so sharp compared to where it was several years ago. We had the Bartlett report, Sweeney's bill, the Graham report. There was a lot of debate, very good, substantive debate on the issue, but the community at that time was not divided as it is today.

Now where does that division come from? Some people think that division comes from the amalgamation of the police. Some think it's because the mayors are not on. I think it's much deeper than that.

You talked and mentioned the term "one tier." The mayor of the city of Ottawa this morning mentioned one tier. That raises a lot of red flags in this community. People are confused with the agenda. As I said, up until Graham, we weren't talking one tier. When we met the minister and local MPPs in November 1990, for the first time the question of one tier was mentioned as possibly part of the agenda. When Kirby was initiated, the possibility of one tier was again raised. It's the issue of one tier that is spooking people today and is why the debate is so sharp today.

The issue is, are the mayors, for example, not on regional council today, not because of rep by pop but because the design is to suppress the strength and the weight of the outside municipalities in order to give more, I guess, momentum to the movement to one tier?

I think that when we see the Ottawa-Carleton Board of Trade talk about one tier, the mayor of Ottawa coming and talking about one tier, the Kirby report, which was sanctioned by this government, and the minister herself when she came into power talking about one tier, it has moved the debate on to a playing field that didn't exist before. If we look, for example, at the reaction from Gloucester and Nepean, it's not, in my opinion, so sharp because of amalgamation of police; I think it's sharp because they see the prospect of this being a stepping stone to one tier, and some people are actually stating that.

One tier may be good, it may be bad, but the fact of the matter is for everybody who considers themselves the lower tier, it's one hell of a threat to them, and it's that area where I think from a governmental point of view we could have maybe dealt with the issue much better than we have. But I'd like to ask your comment. Do you see this specifically as a step to one tier?

**Mr Potechin:** The Ottawa-Carleton Board of Trade historically, going back to 1968 when the first meeting of the introduction of regional government to this area took place—I happened to be the chairman of that meeting so I'm talking from firsthand knowledge—thought there should be one tier. We haven't been given any reasons to change our mind. We'd love to be able to change our mind, but if you turn around and look at the duplication of services that are taking place, at that point—I can't give you the exact figure—it would seem to me that there were roughly 3,000 people in the city of Ottawa employed by the city of Ottawa. Now half of its services have reverted to the region.

Would you please tell me how many people are employed in the city of Ottawa today, if there is one less person? The answer is no. You see, it's not the people who are divided, it's the politicians who are divided, and let me tell you, we've got far more people employed by government in this community at all levels than we've ever had before, at what cost to the people.

**The Chair:** Thank you, gentlemen, for taking the time to appear this afternoon.

BOHDAN YARYMOWICH

**The Chair:** The next scheduled witness is Mr Yarymowich. Good afternoon and welcome. You've been allocated 20 minutes for your presentation.

**Mr Bohdan Yarymowich:** Thank you very much for inviting me. I will try to keep my presentation to about 10 minutes. I may be shorter.

I come here representing nobody except that vast unorganized majority of the citizens of this municipality who don't have an organized voice, and therefore perhaps I can speak for them. I don't pretend to do so. I hope that I will represent their views.

Let me give you a little bit of background on myself. I am a retired lieutenant colonel. I was a member of the public service. I'm now a resident of Kanata. I am active in the community association and I'm a senior citizen member of the Federal Superannuates National Association. I don't represent any of these organizations. I speak for myself.

In 1974 to 1978, I was the director of eastern Ontario region of the Treasury, Economics and Intergovernmental Affairs ministry and therefore I have some knowledge about the municipal affairs of this community from a provincial public service point of view, and I bring that knowledge to bear in my presentation today.

First of all, I am mostly supportive of all the aspects of the bill because I believe the new structure will provide better services more efficiently at lower cost. It may not do so immediately because of transitional costs, but in the long run I believe this to be true, with the goodwill and hard work of the elected members of our councils. I have one suggestion for change regarding the education section, which I will get to later.

In the section relating to the regional municipality of Ottawa-Carleton, I strongly support all the amendments, particularly and especially disentanglement between area municipalities and the region. I particularly support an elected council because of representation by population.

I believe that a regional councillor will represent his territory and the members of his community. He or she will not represent vested interests. I believe that this elected council will reduce the conflicts of interest that now exist between the various municipalities.

I do not believe that the mayors should be on the council for many reasons. I do not believe in a rabbit stew made with a little bit of horse. When somebody asked me, "How much horse and how much rabbit?" the answer was, "One horse to one rabbit." I don't believe in that kind of stew.

I believe that mayors are busy enough looking after their own municipalities without having to take time out to attend regional council. I believe that they have special interests, those of their own municipality, which they bring to regional council and they are not dispassionate in their debates about regional issues because they're always in the back of their mind. They are thinking, "Where the hell are my voters?" They're back there.

I believe that the mayors have adequate influence at the regional level simply because of their position and their own personality. I don't think they need more.

1420

On the regional police, I strongly support a regional police force. We need only look around this province to see how many regional police forces there are and how successful they have been. I think we will get better coordination. I think we will get better efficiency. I think we will get a better balance. I think we'll be able to use higher technology because of a larger force. I believe there will be a reduction in jurisdictional disputes.

I must agree that we have to guard against giantism and rank expansion. That has got to be carefully guarded against.

I believe we will protect service to minorities and outlying areas. I think it is essential that the outlying areas don't wind up on the short end of the stick.

If we examine those other regional police forces, we can learn from them and get a much superior police force. I note that the police services boards of Gloucester and Nepean this morning published a huge ad, at great expense, indicating how inefficient the Montreal police force is. I wonder why they have to go to another province to pick a bad example rather than looking at the many police forces in our own province.

I don't think this is a new issue. It's been around for a long time. It has been debated for a long time. There may be additional debate necessary, but I don't think we need to delay it too much further. The time has come to make some decisions. The time has come to make some changes.

Finally, in regard to the Education Act, it says that there may be the resolution of division by area. I'm sorry; it may be possible to get representation by area; I can't read my own handwriting. Representation can be divided by area where required. I believe that should be changed to be mandatory so that where warranted, there must be some division so that we get representation by one trustee in each ward.

I think the running of school boards has to be brought

in line with the running of municipalities. At-large elections, in my mind, are a terrible inequity and simply do not provide the voter with adequate recognition of accountability. I think we should have one trustee, one ward. By extension, I think that same change should be—I was going to say inflicted, but I think applied to all other school boards in the region.

That brings me to the end of what I was going to say. I think this move is necessary to introduce responsibility and accountability. I believe we should pass this bill. I hope it will pass in reasonable good order so that it can be applied in this fall election. I would ask you to amend that education section and apply the same rule to all other school boards: one vote, one ward, one trustee.

**Mr White:** Thank you very much, Lieutenant Colonel Yarymowich. I was impressed with your presentation. The people who presented just before you said that for a long time they had been in support of one-tier government and they indicated that they were also in support of mayors not being on the regional council.

**Mr Yarymowich:** Believe me, it's coincidental.

**Mr White:** What I'm curious about is that we've heard from a number of people that mayors and local councillors are the people who work closest to them. I know my friend the former mayor of East York would certainly argue that. But the question I have for you is, what argument would you put to these people in terms of your own support for the mayors not being on regional council?

**Mr Yarymowich:** What arguments would I put?

**Mr White:** Yes. How would you argue to people who say "Mayors are important. They should be on regional council?" What argument would you put forth?

**Mr Yarymowich:** I have argued that point. I said mayors are important. They're so important that they can get their way without being on council. They don't have to be on council to get their way, and that's why I don't think they should be there. But the biggest thing is that business of you have one mayor from Ottawa who represents 300,000 people and you have one mayor from Kanata who represents 25,000. Is that a fair balance?

**Mr White:** Are you suggesting as well that the mayors who are on regional council would have a disproportionate influence on their other colleagues on council?

**Mr Yarymowich:** Don't you think they would? I do, yes.

**Mr Daigeler:** Thank you for your presentation. As you had written to me before on this one, I guess we have agreed to disagree, but I do appreciate what you've said and I think you sincerely and honestly held—so is mine.

I would like to indicate, because I think some people perhaps may misunderstand from my dimensions earlier, that certainly in Nepean we have been ready to look at some reforms, but in a cooperative rather than in a coercive manner.

What I object to, frankly—I'd like to get your comment on that since I didn't get a chance to ask the question earlier of the people I really wanted to ask this



of—is that the city and municipality that has, certainly in this area, not a very good record of fiscal management is telling everybody else, “You give up your management,” which was very good if you look at the figures, “so that we can save costs.”

If it was a municipality that had shown through its fiscal management that, yes, they have managed their resources well, so yes, we can actually save, frankly, I'd be much more open to it, but this argument, for example, for elimination of school boards, which is mostly coming from the Ottawa board which is spending about twice as much as the Carleton separate board, they are the ones that say, “You should give up your controls so that we can save money.” That's what I find so hard to take.

I was just wondering whether you'd wish to comment. I would have loved to have asked that question a little bit earlier, but anyway, here it is.

**Mr Yarymowich:** That's an exceedingly good question. I've given it some thought and I agree with the facts that you've presented. I believe the problem is not in the process; I believe the problem is in the people who are there. I think what we need is better people and not different processes.

I've known Ben Franklin for many years, since I was the director of the office here, and he was always, in my mind, a very competent individual, able to give good government, and he's proven that over the years. It just shows you how good my judgement was 20 years ago. I think that's where the problem lies, not in the structure but in the personalities.

I'll give you another reason. I think it's much easier to run a small municipality efficiently and effectively than it is a large one. Let's face it, the larger the problem the more difficult it is.

**Mr Daigeler:** Nepean is 125,000 people now.

**Mr Yarymowich:** But it wasn't 20 years ago.

**Mr Daigeler:** No, but it's still a very competent city. Our tax increases are still below the rate of inflation every year.

**Mr Yarymowich:** I admire you. I almost moved to Nepean.

**Mr Daigeler:** We are being accused of being parochial, “You shouldn't think of Nepean all the time.” I think we have shown—this is the other point I want to make—that we have the interests of the region at heart, but I just don't think that in order to represent the interests, economic and otherwise, of the region, you have to basically emasculate all the local identities and the local powers and the local closeness of the government that we have. It's worked up to now.

Frankly, I'm not aware, and I guess that would be my question, that there are any major problems in terms of working among the various municipal councils and through the region. It's worked. What is the problem? I think the whole region stands out in the whole country in terms of the services that it has, in terms of anybody who comes to Ottawa-Carleton is impressed with what's there. So it's worked. Where is the major problem? They're saying it costs us too much. I am saying, “Well, you're the ones who jacked up the costs.”

**Mr Yarymowich:** Mr Daigeler, I agree to some extent with what you're saying. The problem is that we are now in the 20th century, not the 18th or the 19th century. We no longer live in horse-and-buggy days. It no longer takes half a day for the farmer to get to the local township office. He can fax his message and get a fax answer back within minutes, seconds. He can drive to the town hall in downtown Ottawa in as much time as it used to take him to get to his back 40, 100 years ago.

1430

**Mr White:** But it takes an hour to get a parking spot.

**Mr Yarymowich:** Yes, it takes a little longer to get to Queen's Park. But times have changed and they're changing even more, and we have to organize and structure ourselves for the future, not the past. That's my real conviction, that's my real concern: that we're still trying to live in the last century rather than building for the new one.

We have to streamline our structures, we have to eliminate duplication. Why do we need 11 municipalities in an area the size of Ottawa-Carleton? Did you ever count the number of municipal councillors? I don't have enough fingers, so I can't go beyond that, but there are far too many and they're all duplicating—

**Mr Daigeler:** But there will be even more under this bill.

**Mr David Johnson:** I thank you for your deputation. I can only say, as the government is intent on proceeding, that I hope you're right, but I have some disagreement.

**Mr Yarymowich:** I know I'm right.

**Mr David Johnson:** Then that makes a couple of you in this room, without naming names.

Personally, I think the issue is that yes, we need to streamline and eliminate duplication etc etc, but isn't the bottom line to find the mechanism that presents services to the people in the most cost-efficient manner? If it is, should we automatically assume that's one government?

I can tell you from my personal experience and seeing poll after poll, reputable firms, about which level of government people are the happiest with and which they think is spending their money most efficiently? Do you care to hazard a guess at the result? If you look at the four levels of government—eliminate the board of education, but the other four levels of government—federal, provincial, regional and local, time after time after time it's the local government that comes up at the top, that people are confident are spending their dollar in the most efficient manner and that they're the happiest with; drop way down to regional government; further down again to the provincial government; and the largest government of all, the federal government, is right at the bottom of the list. Isn't there a message there somewhere? We may assume that bigger government is more efficient, but from my observation people don't share that kind of view.

**Mr Yarymowich:** You've made an excellent point on the matter of costs. I think what you have failed to recognize is the other part of the equation, that is, the amount of service and quality of service we get for it.

Are you suggesting that each municipality should run



its own defence force and international affairs because they do what they do better? No, it doesn't happen. Are you suggesting that one municipality can run the sewers across the boundaries of all the other municipalities? It doesn't happen. If you have to run one service across the whole region, the best way to do it is one manager.

**Mr David Johnson:** There are certainly differences of opinion on that. For example, in this day and age in many municipalities the local municipality does the collection of garbage—take that issue—and the regional municipality is involved with the disposal, landfills, that sort of thing.

There certainly could be an excellent argument put that local municipalities, tailored to their own circumstances, their own people, their own geography etc, can deliver the collection in the most efficient manner, and that the region should be responsible for disposal. There's no duplication there. That is the most efficient way to do it. If you were to have the region do the local collection as well as the disposal, there would be many people who would argue that would be more expensive.

**Mr Yarmowich:** I'm not sure on what basis. We do it that way now because we happen to have the lower-area municipalities. If we didn't have them, we'd have to do it by—what would you call it?—regionalization of that service. There would be a branch office in that municipality, or maybe the single municipality is too small. Maybe it should be three municipalities or four municipalities. That could be arranged by the central manager. It can't be done now because Kanata won't coordinate its efforts with Stittsville—two different municipalities. You don't get the cooperation between municipalities that you will get between members of the same municipality.

Let's face it, Ottawa-Carleton is one municipality, in reality. You work in one part of it, you live in another part of it, you get your dental work done somewhere else. It is, by virtue of its existence and geography, one municipality. Why do we need 11 governments to run it?

**The Chair:** Thank you, Mr Yarmowich. The committee appreciates you taking the time this afternoon to come forward and express your views.

**Mr Yarmowich:** I certainly appreciate that you allow a single member of the community to come and have his views expressed. Thank you.

PHIL DOWNEY

**Mr Phil Downey:** Good afternoon. I'm very pleased to have the opportunity to come here and address my concerns with the bill and make suggestions that could perhaps improve it for everybody.

My name is Phil Downey. I've been a lifelong resident of the township of West Carleton, which is the most westerly, rural part of the Ottawa-Carleton region. I'm fortunate enough to also have a business here in Ottawa-Carleton. We have about 200 employees and we have offices in Manotick—which is really part of Rideau, right on the boundary between Rideau and Nepean—Kanata and the city of Ottawa, so we cover, I believe, the views of a lot of concerned citizens from every part of the region.

It is my opinion that if we had a plebescite today in

the Ottawa-Carleton region to vote on Bill 143, it would be voted down by a vast majority of the residents. I'd like to just point out to you what I hear from people—people we see in their homes, people we talk to—and the concerns the average citizen has with regard to Bill 143.

First, at a time when the majority of Canadians feel cynical towards politics and politicians, it must be the objective of our politicians at every level to work to change this attitude. The level of government which has the highest satisfaction rate today is the local municipalities. This statistic comes from a lot of different sources, one of which was the Coopers and Lybrand report to the Kirby commission. I believe one of the main reasons for this high satisfaction level is the accessibility for the public to those elected officials at a municipal level. Removing the mayors from regional council will certainly erode that in every part of the region.

Second, the people I talk to perceive that we are getting a made-in-Toronto solution to the Ottawa-Carleton problem.

Bill 143 does not address several of the concerns addressed in the Kirby commission findings. The biggest concern, and this is at every level of government, is that people don't want changes made that are going to cost more money. We can't afford to pay more taxes. I believe what's happening here is that another tier of government, almost, is being formed. In our area, for instance, we'll still have the local elected councils and the mayors, and then we'll have another level shoved in there, which is the regional councillor. Every time you remove it further away from the people, I believe, it's more frustrating because many of us just aren't sure where to go and whom to talk to when we have a problem or a concern.

My report is short and I haven't a whole lot more to say. I am not here to say that the form of government we have in the regional municipality today is perfect. I know and I agree that it can be improved upon. I am here today to tell you, though, that the vast majority of the people in the region believe that Bill 143 will make our situation worse.

1440

What I would ask is if you could do us, the residents of Ottawa-Carleton, a favour and at the same time restore some of our faith in the political process. Could you perhaps postpone the passing of this bill and give us, the residents and the elected municipal politicians in the region, a specific time to supply a homegrown solution to the problem? I believe that way we could make the changes that are necessary, save the taxpayers dollars and have a solution that's good for you as provincial politicians as well as those at the regional level.

**Mrs O'Neill:** Thank you, Mr Downey. I'm glad you explained that you have contacts in several parts of the region. I think you have also underlined that you're not convinced that accessibility will be improved. Certainly one of the people who presented to us this morning who is aspiring to be one of the regional councillors says that people have trouble finding him, that he has other duties. I don't think it's going to be much easier: If he's hard to find now, he's going to be hard to find when he's

representing more people. You have underlined that this bill is going to present more politicians and that that is more expensive. You've underlined that this is going to make things more complex, that there are going to be more people involved, and who is going to know who is involved with what?

**Mr Downey:** Exactly.

**Mrs O'Neill:** We don't need more complex government in this community.

**Mr Downey:** Of all communities, we know about complex government.

**Mrs O'Neill:** Right. You have suggested that this bill is being rammed, pushed. We are getting only 10 hours of discussion in this community on this bill and not much more in the House. We know it's going to go through. Could you tell one or two amendments that you would consider your top priority? We'd really think that would be helpful.

**Mr Downey:** One of the two things that I think concern us most is the fact that the level of representation, as you say, will be more difficult for the average citizen to be able to identify. Because there's another level there, there's another full-time position, which requires staff or whatever else. If there was some way of changing it so the cost would be at least no greater and perhaps less, that would be my number one priority.

My number two priority would be that the local mayors—I believe mayors in every municipality, whether it's the large ones like the city of Ottawa or the small ones like the township of West Carleton, have a really good feel for what the people in their area require. I know some of you come from municipal politics. You've been there and you've been elected at that level.

I do think there is a problem, that the weighting needs to be changed. Perhaps we could look at some type of system whereby a voice is heard but perhaps the vote from some of the smaller areas doesn't carry as much weight. The important thing is the voice.

The accessibility point of view for the residents, and also that the views of those people can be heard before a vote takes place: Those are the two major amendments.

**Mr David Johnson:** I may be accused of being in the horse-and-buggy era and not being in the 20th century, but—you come from West Carleton, and just looking through my notes, according to what I have, the fire services in West Carleton are largely volunteer. Is that correct?

**Mr Downey:** That's correct.

**Mr David Johnson:** The notes I have indicate that the cost per capita—and you might not know this precisely—is \$25 per capita, which is considerably less than, for example, in the city of Ottawa, which is about \$100 per capita, but I'm not 100% sure of that. Certainly other big municipalities would be about that. There's a difference of four to one. You're getting reasonable fire services in West Carleton?

**Mr Downey:** We have an excellent service. Fire service is a good example of a wonderful volunteer system that exists in that whole community. We're really happy with the quality of service we get. We had a really

unfortunate fire about three or four weeks ago in the village of Carp. One of the old, stately houses that have been there for ever happened to catch fire—actually, it was the Anglican rectory—on a Sunday morning. It was marvellous. I don't think any fire department anywhere could have done a better job, certainly not at the cost we have to pay. That certainly is a major concern for us.

**Mr David Johnson:** I haven't seen the collective agreement with the Ottawa fire department, but somebody indicated to me that there's a prohibition that they cannot have volunteers working within the system. If it doesn't state that, I do know that that's not uncommon, that the paid fire staff are not anxious to work with volunteers.

**Mr Downey:** I really don't think we could afford it.

**Mr David Johnson:** If there was one fire department across the whole region, that would undoubtedly do away with the volunteers—

**Hon Ms Gigantes:** That's not proposed.

**Mr David Johnson:** I understand that's not proposed, and I thank you for the interjection. I understand that, but if we think one-tier government is going to be more effective and efficient, here's an example of a service that is given at the local level in a municipality like West Carleton and many others, Goulbourn and Osgoode etc, that is very cost-effective, because the people are involved locally in giving that service and you can't beat the value you're getting for your money in West Carleton on that particular service. If that's done, volunteers excluded, the costs are going to jump way up.

**Mr Downey:** I agree completely. I really think there is money saved if the closer the people are to the things that are being done, the faster they are there to complain and the faster they are there to give the slap on the back. Even though at first look you'd say, "If we can centralize everything and only have one person doing what 11 do, that should save us 10 salaries," but the fact of the matter is that when it gets down to practical terms, I believe the people who are elected who are closest to the people, and with most of those people on a part-time or at less cost than a full-time basis, I really believe that generally the cost won't be any higher, perhaps less. But more importantly than that, the people really believe their concerns are being responded to, and that's really what democracy's all about.

**Mr White:** Mr Downey, I was very impressed with your presentation and your interest in making sure that government is accountable.

There were a couple of things I wanted to clarify. My friend from Ottawa Centre, who of course being in this area is accountable for the entire federal government as well as what happens at Queen's Park—

**Hon Ms Gigantes:** And the fire departments.

**Mr White:** And the fire departments. Well, the fire departments will not be affected, the volunteer fire departments we were discussing.

The other thing I wanted to clarify was that my understanding is that what we will be having will be a change of 84 regional and local councillors to 84 regional and local councillors—the exact same number. So when the comment is made that you'll have an increased



number, in fact that would be erroneous: 84 is, to the best of my knowledge, the same as 84.

But wouldn't you think it would make more sense if you're electing someone, someone who's going to be on regional council and someone's going to be on local council, versus having someone who might have two or three different levels of votes? Remember, you're electing the same number of people. You know that John Smith is going to be voting for you on regional council, and it'll be looking after social services and regional roads and things like that, and Joe White is looking after the local sewers, the town recreation etc etc. There are different levels of responsibility, as opposed to now, where you have Joe, who's looking after some of those things on Monday but some of the other things on Tuesday. Don't you think that makes it simpler for a voter?

**Mr Downey:** I think you make a point, but I also believe it makes it more confusing, because the average voter doesn't know which person represents what unless they're pretty attuned to what's happening.

The thing I like about the mayors coming in is that the mayor sits and listens to his elected councillors and he listens to the public and he has a feel for everything that's happening there, and then he goes to a higher level and he has the opportunity to take the comments and present them. There are so many different levels. The county council system has worked like that, and I believe that somewhere else in Ontario the representative from that level moves and works at the other end.

It's not unlike a cabinet in the provincial or the federal case. The Americans decide that they're better to take people of expertise from every walk of life and move them into the executive level of government. We in Canada have always believed, why not take from our peers those people and listen to them? I believe the system that's there now is similar to the way it works on the federal level with the cabinet or on the provincial level. I think, in fact, the system works well.

**The Vice-Chair:** Mr Downey, thank you for taking the time to give us your presentation today.

1450

ALEX MUNTER

**Mr Alex Munter:** My name is Alex Munter. I'm a councillor in the city of Kanata and also chair of the Kanata Police Services Board. I'd like to give you some biographical information about myself because, if you were in the Legislature on April 7, you may have heard my MPP Norm Sterling talking about me and focusing heavily on my former affiliation with the member for Ottawa Centre.

In addition to that, however, I grew up in the city of Kanata. I'm the first member of Kanata city council and the urban part of our municipality to have actually grown up in the city. I went to school there. I started a business there which, by the time I sold it, had 20 full- and part-time employees. It was a community newspaper. I was in contact and worked with the community organizations. I defeated an incumbent alderman to be elected to Kanata city council in 1991 and I was twice elected chair of our police services board.

Because of the restrictions on time, I'd like to just focus on two elements of the discussion. I'd like to share with you some of my views, as a councillor, on the issue of representation, direct election and mayors, and then I'd also, as chair of the police services board, like to share some suggested amendments to the bill from our board.

First of all, it's important that we recognize that this debate, when we talk about the election of regional councillors, is just a contrasting of two visions of regional government. There are two equally plausible visions, and I think we should just agree to disagree, and some of us have a different view of it.

Mr Daigeler—and I watched part of his presentation in the Legislature—quoted letters, if I recall, from the Nepean Chamber of Commerce that viewed regional government as an extension of municipal government and viewed representation at the regional level as an extension of representation from the municipal level. That is not a view I share.

I believe a level of government that spends \$1 billion annually, that is an incredibly important level of government on areas of public health, of social services, of planning, of transportation, deserves direct control and direct accountability to the voters of Ottawa-Carleton. Indeed, that is the position of the city of Kanata: Our council has voted, if memory serves, unanimously in favour of the principle of directly elected regional councillors.

Where my dissent from my colleagues on council comes in is on the issue of whether the mayors should be members of regional council, and this is where the whole debate about whether regional government is a government on its own, that deserves direct control or accountability, or whether it's an extension of the lower-tier municipalities, comes into play.

My experience both as a journalist and more recently as a municipal councillor in observing what happens at the region is that mayors go to the upper tier not to represent their constituents but, as the previous speaker said, to represent the corporation of the municipality of, in our case, Kanata, and I'll give you one example.

It is our mayor in the city of Kanata who, when we were discussing an official plan amendment at the municipal level, at our city council, voted against it, spoke of what bad planning it was, which reflected the views of regional planning staff and which our environmental advisory committee and certainly the community associations in the area affected. But because our city council endorsed this regional official plan amendment, she then went, as the mayor of Kanata, and spoke in favour of and voted—in fact the deciding vote—in favour of this particular regional official plan amendment because, as the chief executive officer of the corporation of the city of Kanata, she felt it was her role, even though personally she did not believe this was good planning, to represent the corporate municipal interest.

If you observe Ottawa-Carleton regional council, I think what you'll see is a lot of brokering of interests, a lot of "If you scratch my back, I'll scratch yours" parochialism and a deal-making environment that I don't think is helpful to the best interests of the citizens of



Ottawa-Carleton. What we need in this region, and what we will get in this region through Bill 143, is a direct voice for people all across the region in the running of our region: direct accountability.

Our council also endorsed the principle, during the consultation period, of regional ward boundaries that cross municipal boundaries to deal with the issue of parochialism, and I am pleased to see that was part of the bill.

In the police services board position paper—we have prepared a number of position papers that have been forwarded to the Minister of Municipal Affairs, the Minister of Housing and our member of the Legislature—we have suggested a number of amendments. The city of Kanata is in a relatively unique position in Ottawa-Carleton—there's only one other municipality, and that's Rockcliffe Park, that's in the same situation—which is that we are policed by the Ontario Provincial Police but we pay for that service, unlike the townships in the region.

In discussions with the Ministry of the Solicitor General and others that have been involved in the transition to regional policing, it has become clear that the focus for that discussion has been the amalgamation of the municipal forces within the greenbelt and not so much the issue of what will happen to the those areas policed by the OPP.

The bill addresses those municipalities that get free OPP policing; it does not address the case of Kanata, which is the only municipality in the region policed by the OPP with its own police services board. What we have suggested as specific amendments is to reword section 32.2 of both Bill 77 and Bill 143 to read that the police services boards of the area municipalities are dissolved January 1996, "with the exception of boards in place for those areas under OPP contract until such time and if and when the regional board considers taking over the policing in those areas under OPP contract." Second, that "in the event of consideration under section 32.2, the boards in place participate fully in the planning towards taking over policing in those areas."

We did not feel comfortable in commenting on whether there should be an amalgamation of the municipal forces within the greenbelt. That's not our jurisdiction. Our role is to address the best interests of the citizens of Kanata. Since it seems to be apparent that the OPP will, in the short term, at any rate, continue to police our municipality, we would request the ability to administer and control that service, as we have been to date, in cooperation with the regional police services board.

The position paper we adopted last October, a couple of months after Bill 77 was originally presented, recommended that the city of Kanata, located outside the greenbelt and not policed by its own force, should be allowed to make a decision on opting in for regional contract or OPP on future policing. That is the position of the Kanata Police Services Board.

To conclude, I would say we have been discussing regional reform in Ottawa-Carleton since I was a toddler. We've had round tables and public meetings and private meetings and commissions and reports, and I think it is

relatively hard to make an argument that we haven't had enough discussion about regional reform in Ottawa-Carleton.

**Mr David Johnson:** I thank the councillor, Mr Munter, for expressing those serious concerns the Kanata Police Services Board has with the bill. I just want to get something straight. Was the motion you just read to us—I wish we had a copy of it because I'm trying to listen and take notes at the same time—a decision of the city of Kanata or was that a decision of the city of Kanata Police Services Board?

**Mr Munter:** No, that is a position paper of the Kanata Police Services Board which was endorsed. It was forwarded to city council and endorsed by city council.

**Mr David Johnson:** And those were unanimous votes, I assume.

**Mr Munter:** I don't recall. It was certainly unanimous at the police services board. I think it was unanimous at city council.

1500

**Mr David Johnson:** So the city of Kanata and Kanata Police Services Board, either unanimously or nearly unanimously, would like to retain the option, essentially, of having their own police—

**Mr Munter:** No, no. It would be clear that we're not looking for a municipal force. The model that's useful to look at is Caledon, in the region of Peel; although there's a Peel regional police force, the municipality of Caledon continues to be policed by the Ontario Provincial Police. One of the options that Kanata now has is to establish its own municipal police service. We're not saying that's an option we're asking to retain, but what we would like, the option we are looking for, is as it relates to opting into the regional policing service or continuing a contract with the OPP.

**Mr David Johnson:** You wish to retain the option of having your own police services, in a contract through the OPP, but you wish to retain the option. This bill, the way it's structured at present, clearly is not intended to allow you to do that.

**Mr Munter:** I appreciate that. That's why we have requested an amendment.

**Mr David Johnson:** Yes, and I understand that other municipalities would be looking for—certainly I can see the representative from Nepean saying they agree with you. Kanata and Nepean and perhaps other municipalities wish to retain the authority over policing within their municipalities. That's what that resolution is really saying.

**Mr Munter:** Within the context of a choice between regional policing and the OPP. I think what Nepean—and I'll be corrected, I'm sure. If I've understood Nepean correctly, Nepean's main issue is its municipal police service. Kanata is not arguing for a municipal city of Kanata police force, at the police services board. What we're talking about is opting into the regional service or continuing to be policed by the OPP.

**Hon Ms Gigantes:** I wonder if it would be possible for us to have a comment from Municipal Affairs about how that would fit with the proposals under the bill.

**Mr David Shtern:** David Shtern, with the Ministry of Municipal Affairs. As you said, the bill at this point does not permit that kind of arrangement. The idea is that there would be regional responsibility for policing across the entire region and that there would be one regional police services board that would make the decisions.

**Hon Ms Gigantes:** I wonder if you could comment a little further on your identification of the two views of what the purpose of a regional council in Ottawa-Carleton should be. When we look at the 25-year history, now, of Ottawa-Carleton regional government, I would think that the view that regional council was meant to represent municipal interests quite directly was probably the starting point. I'd just ask you, out of your experience over the last few years both in the media and as a local representative, whether you think you can identify a shift in the public's view of what purposes a regional council should serve.

**Mr Munter:** It would be a good analogy to compare Ottawa-Carleton regional council to a mini-model of the United Nations for our region, because aside from the regional chair all of the people who sit on regional council are first and foremost ward aldermen or mayors of municipalities. Their offices are at different city halls. When they run and when they are elected, and the issues they campaign on, are primarily on a local basis and that is their focus. So when they come to the region, they are not there as regional councillors. They are there to represent the municipal interests of the lower tier.

The problem that creates—and anybody who observed this past Wednesday's regional council meeting will understand what problem that creates: when you have a debate going on with people who are ostensibly regional councillors but who are in fact arguing positions from the basis of being city of Ottawa or city of Nepean, whatever, municipal councillors. I think the expectation of the public, the cynical and fed-up public we've heard about, is that we are a metropolitan area of three quarters of a million people and we deserve a government that's accountable and that makes decisions in the interests of the metropolitan area and that it is not an arena for feuding fiefdoms to represent themselves.

**Mr Daigeler:** I would have liked the member for Carleton to ask some of these questions, as he represents your area, but as he won't be at these hearings, I guess I'll have to ask some of those questions, as I used to be the candidate for Carleton.

**Mr Munter:** I'm sure he would appreciate that.

**Mr Daigeler:** In your comments you were speaking as Alex Munter, councillor, and at other times you were saying "we" and "our," so I find it rather difficult to know exactly at what point you're representing yourself and at what point you're speaking for the police services board. In terms of where you were not speaking for the police services board, when you're putting your view forward, do you think this was the view of the people who elected you or is that your own view?

**Mr Munter:** In terms of the first question, when I said "I," I was representing my point of view. When I said "we," it was the police services board. The police services board has only expressed a position on the

policing aspects of the bill. In terms of what the people in Kanata and elsewhere in the region believe, when I talk to people—and I was at a meeting on Wednesday night and I was discussing this issue with about 15 residents, primarily from my ward—there is a lot of support for the principle of an accountable, directly controlled regional council and a lot of support for the idea of taking the mayors off. This is not an issue that people are fighting in the streets over.

What's important to understand is that for the past several years, the municipal governments in Ottawa-Carleton have gone on a concerted campaign, using taxpayer dollars, to campaign against notions of regional reform. In Kanata, after the initial report from the Kirby commission came out, council used public dollars to put out a leaflet that went to every home in the municipality that said Kanata's future as a city—and this was well after the issue of one-tier government was no longer on the table. "Residents of Kanata are asked to call the following hotline number and register their opinions on this matter. All opinions will be forwarded to Mr Kirby. For example, tell Mr Kirby if you want Kanata to remain as a separate city or if you want one massive city for Ottawa-Carleton. Give him your reasons."

If you use public dollars and if you use the authority and the moral suasion of the mayor's office to incite people, well, then you will incite people, and that is what has been done.

**Mr Daigeler:** The mayor is coming, so we can ask her when she comes.

Let me ask you. Have you had any meetings with the Minister of Municipal Affairs, either on the previous Bill 77 or on this Bill 143?

**Mr Munter:** No, I have not. I've corresponded with the minister, both as a councillor and as chair of the police services board. I have forwarded him suggestions, comments and position papers, but I have not met with him.

**The Vice-Chair:** Mr Munter, on behalf of this committee, thank you for taking the time out of your busy schedule to give us your presentation.

PHIL BENSON

**Mr Phil Benson:** Good afternoon. My name is Phil Benson. I'm a resident of Gloucester; I live in Blackburn hamlet. Referring to the previous speaker, I just represent myself, and I guess I'm one of those fed-up, cynical taxpayers.

Just personal history: I've lived in four provinces and more cities than I like to think of, and I've seen much bigger cities, much smaller cities, lots of government, regional-tier government, single-tier government, double-tier government. The city here, the entire region here, continues to confuse me and cause me much concern.

I'm going to talk about three main things today. The first thing is accountability, the cost of government and the role of government. To start off, Bill 143 doesn't answer any of the major concerns I have. I think it fails on all counts.

On accountability, as I said, I come from Blackburn hamlet. Most of you don't know where Blackburn hamlet



is, a nice, little residential area of town. We had a major problem there a little while ago dealing with a little commercial application of a development. It was on Innes Road, which is a little two-lane road that everybody considers a local road. It's not a local road; it's a regional road, which caused concerns with the commercial application.

1510

I asked at least two dozen of my neighbours, if they had a problem on Innes Road, who would they call? Twenty said the mayor; four said their local councillor. When I informed them it was a regional road, I suggested they should call the regional councillor, which we do elect; I know the gentleman well. They didn't know who he was and most people didn't know where the regional office was.

Accountability means simply that taxpayers know who represents them and who to blame. Today, if there's a problem in Innes Road, the mayor and city council take the flak. Tomorrow, with Bill 143, short and sweet, the mayor and city council are going to take the flak. Bill 143 doesn't address it. In my mind, I'm torn between two things: It either doesn't go far enough or it goes too far.

The people who are here talking about mayors being on city council—that is something I can understand well. If the mayor is going to take the flak, it seems to me the mayor should be sitting at the council table, making the big decisions. If not, we're talking about 18 people elected regionally who are going to have a free ride at my expense, and I don't like that one little bit.

Cost of government: I did appear at the citizens' committee. Quite briefly with that is that I thought it was rather sad that a citizens' committee was sent out to set the wages of regional councillors before you did your job. Talk about pigs at the trough. I make a joke about it, but as a taxpayer, I don't have deep pockets. I had a funny feeling they were trying to shoehorn 18 more hands into my pockets, and a fat bureaucracy to go with it.

I wish they had waited longer so that you could have done your job after consultation so that, as a citizen, I would have known what to talk to. I thought that was poorly done and I'd recommend that they go back out after you have done your job to once again listen to the community to see what we have to say about whatever we're going to end up with, because we weren't sure.

I think there's just too many governments and too many politicians, too many levels here. As he said earlier, when you have a report that says there's 84 elected officials and after amalgamation, changes, switches, we're going to have 84, rather than supporting change or accepting change, perhaps the report should have been filed under "G." That isn't change; that's the status quo with moving things around, remaining confusion all around.

On the role of government, I think, after Charlottetown, every politician in this country should have learned one very simple lesson: You can't change how we are governed in an absolute sense without our approval. When you hear all these people coming to you

during the next two days you're here—it's not long enough, but that's okay—you're going to have people arguing for one point, arguing for another, reports, reports, reports. I have a simple solution: Shelve this part of Bill 143, put it on a ballot in November, put more than one type of change—stay the same, change the way you want in Bill 143, single-tier government, dump the regional government. Put three or four changes on there and let us decide. In the long run, if there is a logjam, let me and my neighbours in my community decide how I am governed. I don't think we can go wrong when we do that in a democracy.

As I said, I am for change. I think we should have change. But I don't think Bill 143 changes anything. I think it is again a shuffling, a move about accountability, costing factor. I just don't see it being what we need in this city today. Those are all the comments I have.

**Mr White:** Mr Benson, I was interested in some of your first comments; frankly, the issue about the confusion which we all feel. Even as elected politicians ourselves, we're often curious about other levels of government that affect us. You know, I pay my local taxes, I have regional councillors and local councillors in the area that I live in. I'm not always sure what the heck they do.

**Hon Ms Gigantes:** Or what we do.

**Mr White:** Oh, indeed; what we do. You were talking about a regional road in your area. My understanding is that at the moment you have three regional councillors who are also local councillors in Gloucester. Do you know, for example, who those regional councillors are?

**Mr Benson:** Yes, two for sure. Cantin and Faucher, and of course the mayor, that's three. Yes, I know at least two of them fairly well. I've had dealings with them.

**Mr White:** What you're saying, though, is that most of the people in your neighbourhood would not be able to say that this person is a regional councillor and this person is a local councillor.

**Mr Benson:** What I'm saying is that most people have no idea, and I made it in jest at the citizens' committee that the only time I really—and I think I'm aware more than a lot of other people; I'm busy in the community doing many things. I think the only time people know about a regional council is when they get the water bill. That's all the regional council is for them, the damned water bill every two months. In fact, I've been in cities where the water bill's tacked on to your taxes, so you never see it.

I think there's a lot of confusion. The problem with the communities is there's not a sign on a road that's blue that says every blue sign means it's a regional property. People have no idea which is a regional road, which is a local road; which park is regional; is the region responsible for this sewer or that sewer; where do I go for planning? It's fairly confusing. I don't think that this bill addresses it.

**Mr White:** So what you're suggesting is that along with some of the presentations we have heard earlier, you would in fact like to see something which would simplify things for voters and for the citizens of Ottawa-Carleton



that would say: "This is a one-tier government. You're electing a regional government or a one-tier government that addresses all those services; you don't have to worry whether this person is regional or is regional and local."

**Mr Benson:** I'm not quite saying that. Personally, my preference is to keep the government as close to the local people as possible. I would support having very strong municipal, local governments. The problem in a city of bureaucrats is that it is either too small to have a massive regional structure or, because of the size and the amount of people, we don't have enough people to pay for the monster down the street here on Lisgar Street. At the same time, the concerns of the people are more local, so we're sort of halfway between it. The city isn't quite at the point of having a million and a half, two million people, where we can really fund that and at the same time take care of our local concerns. That's part of the problem. We're in the middle stage of a developing city.

If I had a choice on a ballot, would I vote for single-tier or would I vote to get rid of regional municipal government? I'd like to have the choice; that's what I'm saying. It would take me a lot of time to think about it. My heart would say stick with local. My brain might say something else.

**Mrs O'Neill:** Mr Benson, thank you very much. First of all, I want to thank you for giving your time to sit on that citizens' committee.

**Mr Benson:** I didn't sit on it; I just appeared at it.

**Mrs O'Neill:** Oh okay, sorry. I knew you were involved because you have been quoted in the media.

**Mr Benson:** Yes, I was.

**Mrs O'Neill:** I wanted to ask you, being an audience there then, what you thought—you haven't stated, today, your arguments, or the arguments were presented regarding full-time, part-time councillors, if that's a real argument or is not a real argument, and what you, because you have been very honest with us today, could say to us about that particular line of thinking.

**Mr Benson:** At the citizens' committee, the major issue for them, all they were listening to, was basically money. The problem I had dealing with it there was I thought it was disrespectful to Parliament to have this committee there before you did your job. We don't know what's going to happen. What am I addressing; what am I talking to? So you, in your wisdom, as a House, decide on what the law is going to look like and this committee has already made recommendations and decisions. Personally, I don't think we are a big enough city to really pay for this. That's part of my problem, in my head anyway, that I think we're going to create another large bureaucracy.

They were talking down there full-time, one, two staff; they were talking big dollars compared to today. I know the mayor sits in two places and the councillors sit in two places but I just didn't think it warranted having full-time. However, if in your wisdom you decided to go to 18 full-time reps, then I'd have to examine it again. I'd be looking at saying, "Well, yes, if you're going to have 18 people there, you have to pay them and you have to staff them."

**Mrs O'Neill:** Thank you very much. I do know where Blackburn hamlet is.

1520

**Mr Benson:** I know you would. I was talking to some of the other people.

**Mr Chiarelli:** I take it from your comments that you're not 100% happy with the status quo either, but if you were a member of the provincial Legislature and you had a choice between the status quo or voting for this bill, would you vote for or against this bill?

**Mr Benson:** I'd vote against the bill and I'd vote against the bill because I firmly believe in democracy. I'm not talking about changing a boundary. I'm not here about changing a small little administrative board. I'm of firm belief that how people govern themselves is a right reserved to the people; it is not the role of government to do it.

The NDP, the government in power, has said it's not calling a snap election. It gives them lots of time to say in November, "We're going to go to the people; let them decide." They're going to be in power long enough to pass whatever the people decide, and if not, your party could commit itself, as the Conservatives could, that if they're in power, they will change it as the people decide. I would go with the people and I'd vote against the bill.

**Mr Chiarelli:** So you'd pick the status quo as the lesser of two evils.

**Mr Benson:** Yes, until the people decided.

**Mr David Johnson:** I think those are very thoughtful comments and I think your suggestion in terms of putting good information out to the people and some alternatives is really the way the government should be acting more often, particularly when we're talking about municipal government. Municipal government is as close to the earth as you can get, delivering the down-home services.

My suspicion here is that a lot of people are in the same boat you're in. They're concerned about the accountability, they're concerned about the cost of government, and what we've got right now I think is causing a lot of concerns—to use that word again—with so many people. I suspect that over the past decade or two we've built up a system of government when the economy was in better shape that now we're finding we can't afford.

Look at the provincial debt of some \$80 billion; a deficit of \$10 billion a year; municipalities struggling. The board of trade was here earlier and I'm sure the impact on business in Ottawa with the cost of municipal government is severe. This puts us all in a quandary.

I suspect that what we really have to look at is different types of government in different areas. What makes sense in Ottawa-Carleton may not make sense in London or Windsor or Toronto or any other place. But you have to have the people involved; I think the main message is you have to have the people involved.

Were you involved with the Kirby report or any of those? Have you talked to any other people who were involved?

**Mr Benson:** I've read the reports. I got to the 84 and

84 and I filed it under "G." I'm sorry; when you're talking about reform and cutting back and cutting down, you're cutting staff, you're cutting jobs and you're cutting people, and the people sitting around the table had no intention of cutting themselves. I had no time for it.

**Mr David Johnson:** Yes. The position that's being put forward to us is that we've had the Bartlett report and the Kirby report and people have had lots of opportunity to talk about this issue. So now the people have had their opportunity and it's time to take action. What's your response to that?

**Mr Benson:** My response is that I don't really care how much it was studied. I think, being blunt, I don't need Big Daddy in Toronto to tell me how I'm governed. It wouldn't matter who was in power. It doesn't matter if it's the Liberals, Conservatives or New Democrats. I don't need Queen's Park—most of you, like I say, don't know where Blackburn hamlet is—telling me what's good for me in my home town, when it's that close to the people. As you said, local government is as close as you can get to the people.

What's the delay? Rome wasn't built in a day. Cities last thousands of years. Would it really hurt to say, "This election we're going to leave it the way it is; we're going to ask the people with the firm commitment from all the parties that in three years whatever the people decide we'll live with"? One thing that's lovely, the people could decide to leave it the way it is, and if we are stupid enough to pay those taxes in all this confusion, then so be it. If that's what the people decide, that's what they decide and we should live with it.

**Mr David Johnson:** Good enough.

**The Vice-Chair:** Thank you, Mr Benson, for participating in this committee.

**Mr Benson:** Thank you very much for your time.

JOHN LEMAISTRE

**Mr John LeMaistre:** My name is John LeMaistre. I'm the city clerk for the city of Nepean. I'll endeavour to read as quickly as possible. I do have a fairly lengthy presentation.

I'm here today to express my concerns with some of the technical components of Bill 143, particularly as they relate to the municipal election process. In my employment with the city of Nepean, I have been actively involved in and responsible for municipal elections for 20 years, or conversely, nine municipal elections. I would like to draw on that expertise to explain why I do not think the electoral provisions of Bill 143 should be implemented for the 1994 election.

I want to make it very clear from the outset that I'm not here to discuss the politics of Bill 143 or the provisions regarding police services, economic development or sewers. I do not have any hidden agenda to delay this legislation unnecessarily or inevitably. I am here to address the specific technical problems this bill creates for this year's municipal election.

I would like to begin by stating that I support the principle of periodic review of local government. Although I do not believe this legislation fully reflects the true needs of the residents of our regional community, I

recognize that it may well be the change that is coming. However, I firmly believe that the electoral changes proposed in this bill should not come into effect for the November municipal election.

Obviously, the government has invested considerable time and money in the development of the legislation. As an administrator, I recognize the investment of resources which has been made and believe something positive must result from that investment. More importantly, I believe that something positive can result from this if we properly plan for its implementation.

Since the initial discussions on Bill 77, the Minister of Municipal Affairs and the ministry staff clearly expressed the need to pass this legislation prior to the start of the election year. This position was consistent with that taken by municipal clerks and consistent with the commitment of this and previous governments to avoid, wherever possible, significant changes to the election in an election year. Mr Chairman and members of committee, I do not need to tell you this year has already begun. We have passed the deadline for putting these changes into effect for this election.

I have two primary areas of concern. My first concern is that some basic parts of the development of this legislation were flawed and should be revisited. My second concern is the number of technical and administrative issues which would result from the implementation of this bill in the middle of an election year; issues which would jeopardize the integrity of the municipal election process.

Let me begin with my concerns about the development of the bill. Having made the assumption that there will be legislative reform based on Bill 143 in its present form, there are certain things which I must presume. Based on this assumption, I have developed my comments with the premise that there will be 18 regional wards which cross municipal boundaries and that regional council will be separate and directly elected.

When the Minister of Municipal Affairs first announced his legislative intentions, he established a technical advisory committee to assist in the development of local and regional wards. I was a member of that committee. At that time, he established the parameters through which the committee would work, the time frames within which the work would be produced and the five principles which would guide the committee. The establishment of this committee was an extremely good initiative by the minister. Unfortunately, the potential of this initiative was lost in the established parameters and the time frames.

The technical advisory committee was given 30 days in the middle of summer to review the draft ward structure, solicit public input and provide recommendations to the minister. If that weren't difficult enough, the committee's potential was restricted by the assumptions and expectations generated on the draft plan, the public and political reactions to the announcement and the need to establish a working relationship and plan. In addition, the development of wards has traditionally been a municipal function and one which involves considerable planning and public input, not something which is done in 30 days.



The technical advisory committee considered many good alternatives but was unsuccessful in reaching consensus on the ideal ward structure available under the minister's parameters. I believe that the committee could have offered some better solutions than what this bill proposes. I also believe that if the government truly wanted municipal input, it would have encouraged the work of the committee rather than inhibited it. The committee should have been given a mandate which required it to develop 18 regional wards which crossed municipal boundaries and within which local wards were wholly contained. The number of local politicians could have been defined and the local ward structures could have been properly developed by the local municipality.

The minister indicated that fair representation through a representation by population system was a central principle of this legislation. He established a system which allowed for variances of 25% above or below the mean number of electors, where justified. He indicated that population trends and the relative rate of population growth or loss were among the justifiable criteria for variance from the mean number.

1530

At the present time, all the regional wards have populations within the 25% range. However, the population trends and relative growth or loss of population in these wards are criteria which were not properly considered. Many of the wards which are currently at the highest end of the population ranges also have the highest growth potential. An example is regional ward 3, which encompasses Nepean's southern growth area. The regional ward as proposed is less than 1% from the acceptable variance limit and has little or no room to accommodate its growth potential.

At the same time, there are wards at the low end of the population range which have relatively static or regressive growth projections. An example is R17 in Ottawa's centre, which has the lowest population of all other regional wards. This situation will be compounded by the projections for population reduction in this ward.

From a technical perspective, the population distributions for these two scenarios should be reversed. Wards with anticipated growth areas should have room to accommodate that growth and vice versa.

Another major concern is the application of the principle of representation by population in the development of ward boundaries. While representation by population was a guiding principle in development of regional wards, it does not appear to have been as important in the development of the local wards. In Nepean we have one local ward which has a population well below the mean average and which has no growth potential. Conversely, our most populated local ward is in our largest growth area.

As you can see, at both the local and regional levels there are serious problems with the population and the growth potential of certain wards. These problems could have been avoided had there been more direct communication with the local municipalities and if the mandate of the technical advisory committee was properly established. These problems exist in addition to the fact that

the local and regional wards were structured without adequate opportunity for the residents to identify communities of interest and participate in the development of the ward structures.

If the minister wants 18 regional wards, and if those wards must cross regional boundaries, so be it. However, achieving this does not have to come at the expense of proper ward development and long-term planning. The efforts to make these changes apply to the 1994 municipal elections have resulted in a flawed structure. This structure will be statutorily required to exist without change for a minimum of two elections or six years. Why create a poor structure to meet arbitrary deadlines? Why not take the time to do the job properly and plan for its implementation in a realistic manner?

If the problems inherent in the development of the legislation are not sufficient to delay implementation of the bill, then consider the impact of these changes on the electoral process. There are a number of specific legislative requirements which have been or will be compromised if the legislation comes into effect for November elections. I would like to identify those issues and explain their impact. The list is in chronological order of how issues develop throughout the election process.

Effective January 1 of an election year, candidates may register for municipal office. Registration is a necessary step so that candidates may collect contributions or incur campaign expenses. Candidates in Ottawa-Carleton cannot register for offices proposed under Bill 143 because they do not exist in law. Candidates who register for offices which presently exist but will cease to exist under Bill 143 risk serious difficulties in properly filing financial returns. Among these risks is the potential of being removed from office and facing legal action.

The delay of the registration process is the first sign that it's too late for this legislation this year. This unnecessary confusion is likely to reduce the number of potential candidates. How can individuals evaluate the options of local elected offices when those offices do not exist?

By March 15, the municipal clerk must meet with the secretary of the school board to complete the trustee determination and distribution process. This year, Bill 125 allowed school boards to consider a reduction in the number of school board trustees. In Ottawa-Carleton the school boards could not properly consider a reduction in the number of trustees within the prescribed time frame since the electoral areas of the board were unknown for this year's election. As a result, some boards made the assumption that a second opportunity to consider a reduction would happen. This is not provided for in the bill. We have been told that it may be provided for in the corresponding regulations.

Conversely, some school boards chose to reduce the number of trustees and selected a number and distribution which assume Bill 143 will be passed. If the bill is not passed, some boards may be left with an unworkable distribution.

By April 1, the municipal clerk must provide to the Ministry of Finance a list of assessment roll numbers for every property in the municipality by electoral ward and poll number. The electoral wards proposed under Bill 143



do not exist in law. Therefore, the work had to be compiled based on the existing ward and poll system. Recognizing the potential for change, municipal clerks have been forced to complete this work for the ward structure proposed under Bill 143 as well. This dual system has resulted in double the work for municipalities and ultimately double the cost to the taxpayer. Our taxpayers will continue to be burdened with extra unnecessary costs if Bill 143 is implemented.

Another problem exists in cases such as Nepean, where requests for adjustments to the proposed ward structure were made to the minister. The minister has indicated these requests will not be approved until the bill has been passed. Unfortunately, until such time as the minister sees fit and the regulations are passed, there will be no ward structure in Nepean. Without wards, candidates cannot register, polls cannot be defined and the public cannot be informed. It is election year. How can we have an election if we do not have a defined ward structure?

By July 31, the Ministry of Finance must deliver to the municipal clerk a copy of the enumeration list. This list is used to create the preliminary list of electors—the voters list—which must be available to the public and candidates by September 3. According to the Ministry of Finance, even if the bill were passed tomorrow, a list of electors based on the new ward structure cannot be made available until September 17, well over a month beyond the usual delivery date.

Without the list, residents cannot verify whether they have been properly enumerated, candidates cannot properly identify their electorate, and campaign expense limits cannot be calculated. These issues are prescribed in law because they are essential components of the electoral process. Delaying these requirements jeopardizes the integrity of the elections process.

By August 31, the assessment commissioner is required to distribute a voter identification notice to every address on the voters list. As this will not be available until mid-September, these notices cannot be delivered until the last week in September. The purpose of the notice is to make electors aware of the upcoming election, identify their ward and poll number and their school support, and provide them with an opportunity to correct any information which is inaccurate.

This year, the potential for error in the list is far greater than ever before, not simply because of the changes in ward structure but also because the time period the clerk had to review the list for errors has essentially been eliminated. If the bill is in effect for this election, the electors need to be notified of the changes which are being made. Instead of increasing the notification period, we are all but eliminating it.

Aside from the legislative requirements for making candidates aware of the election process, this bill requires a considerable public awareness campaign. Voter participation is an essential component of the democratic process. Voter turnout in municipal elections is traditionally very low in Ontario. Voter turnout is reduced when the electorate does not understand the electoral structure. The government is proposing legislative amendments which radically change the electoral struc-

ture in a time period which does not properly provide for a public awareness campaign. In addition, the government has not made any resource commitment to a campaign.

From September 6 to October 14, electors have an opportunity, through the revision period, to make corrections, including additions and deletions to the voters list. Given that the list will not be available until late September, the revision period cannot begin on September 6. The Ministry of Municipal Affairs has suggested that this period will be reduced from six weeks to two weeks, but nothing has been provided in writing.

Based on the information provided to date and the provisions of the Municipal Elections Act, the revision period cannot be extended beyond October 14. Electors will not receive voter identification notices until the first week of the revision period, allowing one week for them to make application for any necessary changes. The potential for eligible electors to be denied the right to vote will be very high.

From an administrative perspective, this shortened time frame is unreasonable. In 1991, the city of Nepean received approximately 3,000 applications for revision to the list. The changes generated by Bill 143 will make that number even higher. Certainly my staff can process this information regardless of the reduced time frames but, once again, not without unnecessary cost to the taxpayer.

Nowhere would the potential for confusion of the electorate be more evident than at the polls. Our poll staff is trained to perform a very complicated job for one day. Their jobs will be further complicated by the proposed changes. In addition, the number of electors who may want to be added to the list at the poll will be greater. The potential for the right to be challenged or denied is very great.

To accommodate the delayed registration period, the ministry has suggested an extension of the period after the election during which candidates can continue to collect contributions. It is very difficult for any candidate to collect contributions after the election, but this is especially true for defeated candidates. Therefore, such an extension would only benefit the elected candidate. Furthermore, this extension will require several subsequent deadlines—the possibility for never-ending adjustments to the 1994 election process.

This is not a comprehensive list—it's lengthy, but it's not comprehensive—but only a sampling of the number and range of electoral processes which will be negatively affected by the implementation of the bill this year. Unfortunately, the majority of the amendments to the technical and administrative requirements are not included in Bill 143 but rather will be introduced by way of regulation. These regulations have not been made available to municipal clerks for comment, nor has the minister indicated when the regulations will be passed. Without the regulations, we cannot have an election. Without the regulations we do not know what the dates for prescribed events will be. We do not even know if the dates will be prescribed. We are in the middle of an election year and we do not know what rules to follow. This is not typical of Canadian democracy.

As elected members of the Legislature, you know the importance of well-defined election laws and time periods. You understand the importance of a well-informed electorate. You have an opportunity to ensure the needs of the electoral process are properly dealt with. This opportunity does not deny you the opportunity to invoke change in local government structure. Please consider these comments and recognize we have passed the deadline for such legislative change for this election.

The basic concept of regional reform is good. There are components of this legislation which are workable, but there are better alternatives than this. These alternatives were not properly considered because the process by which we were allowed to consider them was flawed. I am asking you today to recognize those flaws, to recognize the potential for constructive change to Ottawa-Carleton. If you choose to proceed with this legislation, then proceed with a bill which establishes the basic parameters only. If that has to be 18 regional wards which cross municipal boundaries, so be it. But I am asking that you allow the residents of Ottawa-Carleton the opportunity to properly evaluate the options available within your parameters and to recommend a workable alternative for regional reform which will come into effect for the 1997 municipal elections. Thank you.

**Mrs O'Neill:** I think I should first correct the record. Mr LeMaistre, although on the agenda is stated as a clerk for the city of Ottawa, is the clerk for the city of Nepean. That's just another example.

I'm very pleased you came, Mr LeMaistre, because you did bring an entirely different perspective than we've had because you've had an entirely different experience than most of us have been able to have. I find it very much congruent that you are reminding that we are not going to have a public awareness campaign of Bill 143 any more than we had of the hearings on Bill 143.

I am very pleased you brought forward that there will only be one week to change the list of the preliminary electors. That's a real tampering with tradition, and in my mind even maybe a tampering of democracy, because one week is a very short time for people to be informed of whether they're on a voters list or not.

The regulations are not present and you feel very uncomfortable with that. Could you tell us some of the things the regulations will be bringing forward that you're going to have to follow even though you know not at this moment what those may be? What kinds of things will the regulations determine?

**Mr LeMaistre:** Regulations usually address the number of forms that are associated with the election process, and it does become difficult, when those forms are not available, to ensure that the candidates receive that information etc.

**Mrs O'Neill:** How will the regulations affect the actual electorate?

**Mr LeMaistre:** They will certainly not allow the clerks the opportunity to ensure that the election runs smoothly and runs on time and is well run. Without knowing all of the detail, it is very difficult to ensure a smooth election.

**Mr Daigeler:** Thank you very much. Yesterday we had a briefing from the ministry officials in Toronto on the provisions of the bill. I asked them what the normal process is for the establishment of local wards and they clearly said the normal process is to have public hearings and so on, and then it's the municipal board that establishes the wards. In this case we have a very significant departure, obviously, from this, that the minister is establishing the local wards.

When was the last time the wards were changed in Nepean, and what was the process you followed in order to do that?

**Mr LeMaistre:** We established our ward structure in Nepean in 1980. Again, the technocrats, being the clerk, myself and other staff, developed some criteria based on population, growth projections and the other criteria I outlined, and then we went to the public with those proposals, a number of proposals. The public had ample opportunity for input. I believe we had six or seven public meetings. The process took seven to eight months. We came to a successful conclusion using that public input.

I can comment that those three wards which were based on population growth—it was recognized at the time that two wards had growth potential, and one ward at that point had probably 7,000 or 8,000 more electorate in it—today those three wards are fairly even in terms of population distribution. I'm proud of the fact that when we did our homework it did prove well for the future.

**Mr David Johnson:** I too thank you, Mr LeMaistre, for a very insightful piece of evidence. It describes a nightmare, frankly: a great deal of extra work and cost for the municipalities; a later-than-normal notification to the electorate of who's on the voters list and who isn't; one week for revision, which is going to be a nightmare for you and your colleagues, I suspect, to try to sort that out; and undoubtedly a great deal of general confusion around the elections later this year.

From your 20 years of experience as the clerk in nine municipal elections—and having worked with a few clerks in my life, I know that clerks are at the centre of all this and get a lot of the correspondence that comes in to municipalities. Something is trying to be rammed through here in a very short time. I'm not sure what the urgency is to do it this year.

Over those 20 years, has there been a huge outcry in your municipality demanding—the government is saying the people of the region of Ottawa-Carleton are demanding some sort of change. Have you been getting those letters or that communication as clerk that we really have to have a change for this election?

**Mr LeMaistre:** The simple answer to that is no.

**Mr David Johnson:** No. Then the question remains: Why are we trying to ram this through?

In terms of the local wards, you indicated that the regional wards fit within the 25% criterion, but that some of them will grow beyond that parameter. In terms of the local wards, do they all fit within the 25% parameter?

**Mr LeMaistre:** No, they don't. We have a ward, the Crystal Beach area of Nepean, which is much smaller than the 25% and, as I mentioned, has no growth poten-



tial. Conversely, our Barrhaven area, which is the southern growth area of the region, is almost at the upper limit of the 25% presently.

**Mr White:** Mr LeMaistre, I want to assure you on a couple of points, first off, that the revision period for the preliminary list of electors can be extended well beyond October 14, right up until November 1, by—

*Interjection.*

**Mr White:** November 1 is usually before the municipal election, as I recall. In terms of the issue of the setup for the wards and the problems with that, I'm wondering if I could ask Ruth Cameron from the ministry to comment on the development of that.

**The Chair:** If they can do it in two minutes, they're welcome to it.

**Mr Doug Barnes:** The ward structure, which the Minister of Municipal Affairs published on October 19, 1993, reflects a process in terms of ward development which has been going on since 1990. In fact, we had a commissioner to deal exclusively with the construction of regional and local wards, Katherine Graham.

The ministry provided, on the first reading of Bill 77, back in July, with the establishment of the local wards committee, a draft map and definition of wards. I would say the actual movement towards the regional ward structure is a process which has not been restricted to a very short time frame, but more like two and a half years.

**Mr LeMaistre:** First, I should acknowledge, as I said before, that it was an excellent process. Certainly the ministry staff should be commended, because they were in the middle of what I felt was a preconceived idea and there were already lines on maps drawn with the wards. What I was trying to suggest was simply that if there had been no lines for wards and the criteria were simple, I think we could have achieved consensus with the area clerks and the ministry.

**The Chair:** Mr LeMaistre, thank you for taking the time to come down this afternoon to express your views.  
1550

BEN FRANKLIN

**The Chair:** The next scheduled witness is Ben Franklin. We're having one of those days, so I'm going to say that Ben Franklin is the mayor of the city of Nepean and hope I'm right.

**Mr Ben Franklin:** I am here today to present the views of the majority of ratepayers of the city of Nepean, the second largest municipality in the Ottawa-Carleton region and indeed the second largest municipality in eastern Ontario, which includes right up through Belleville, Kingston and so on, with a population of 116,000.

The majority of Nepean ratepayers were overwhelmingly opposed to the Kirby commission's recommendations, the changes to municipal government in Ottawa-Carleton proposed by Bill 77 and, accordingly, to Bill 143.

Members of committee, hundreds of Nepean ratepayers have conveyed their opinions on the subject of local government reform in Ottawa-Carleton to the Minister of

Municipal Affairs since the Kirby commission's first public meeting in our municipality in July 1992. As is evident by the introduction of Bill 143, the real and valid concerns of Nepean residents continue to be ignored—I point out that we probably had one of the most extensive public processes each time there was a change from Kirby to Bill 77; we took the time and our meetings were extremely well attended—concerns such as increased property taxes, a decline in accessibility and corresponding loss of accountability as a result of regionalization of services and a new regional council separately and directly elected without the heads of local councils.

These concerns are shared by ratepayers in other municipalities in Ottawa-Carleton. The results of a public opinion survey, conducted on behalf of the Kirby commission by Coopers and Lybrand in October 1992—this was conducted and paid for by Kirby's group—found only 29% of the people of Ottawa-Carleton were in favour of increased responsibilities for regional government. There was also strong resistance to any change in the structure of local government that would result in increased taxes. This is a public opinion survey across all of Ottawa-Carleton, and the basis of any change should be built on that.

I will attempt to summarize today the main concerns of the city of Nepean residents with the major proposals of Bill 143. You will be provided with copies of the municipality's submissions to the provincial government on the Kirby report and Bill 77 which reflect the sentiments of the majority of residents, expressed at special public meetings which, as I indicated, were well attended, and with copies of hundreds of letters, petitions, faxes and telephone messages supporting Nepean's position, which was developed out of the public meetings and as a result of the opinions expressed at the public meetings and published in the newspaper.

City of Nepean ratepayers want Bill 143 withdrawn, or if not withdrawn, then they want significant amendments. It is their hope that their message will be finally heard and seriously considered today and in the Legislature.

Nepean is opposed to separately, directly elected regional councillors from wards that cross municipal boundaries. This position was communicated in our official 1989 response to the Bartlett report, our 1990 response to Graham, our 1993 response to Kirby and our 1993 response to Bill 77.

Why? Currently, four members of Nepean's seven-member council represent our residents' interests on regional council, three who are elected at large across our entire municipality plus the mayor.

The position of regional councillor is specifically identified on the ballot. They represent residents' interests on both local and regional council, and that is very clear. Residents therefore enjoy responsible, accountable, effective, understandable and—something I don't have typed in here—most importantly, accessible municipal government. They have four people to turn to if it's a regional matter.

It was recognized by Commissioner Dave Bartlett that this method "seems to work better than the devices used in other municipalities." I believe at the last election



Gloucester adopted this style as well. You can read that on page 31 of the Bartlett report.

The minister's proposal would mean a Nepean resident could only vote for one regional representative in their particular ward, who will only serve on the upper tier. This will result in a loss of accessibility and responsiveness to issues, a weakening of lines of communication and confusion between the two tiers, and a less coordinated effort.

Crossing municipal boundaries will only create more confusion for the electorate as to who is the appropriate representative to contact.

It was interesting in listening to someone earlier today. This isn't in the text. A question was asked about who the representatives were, and if there was a regional one, they seemed to know, and they knew the mayor representing them as well.

To educate the public in a short time before the municipal election will indeed be difficult, if not impossible. I predict a multitude of complaints at municipal election time, in fact probably mass confusion.

The minister's proposal allows for Nepean to have two regional councillors elected from wards entirely within the city. Two wards are shared with the city of Ottawa, one of which is clearly dominated populationwise by Ottawa residents. The wards do not reflect the minister's criteria for representation by population.

I should point out, and I think the clerk made some good points, in terms of the numbers where you have, if you look at this projected, a ward somewhere in Ottawa around 30,000 people, and a lot of your downtown ones are that way with declining populations, and in Barrhaven growing towards 50,000 people: totally inappropriate.

The two regional wards within our municipality are extremely large, while the city of Ottawa wards have been established with much smaller populations.

Residents are also concerned with the new costs associated with separately elected council, which gets involved with salaries, staff, office accommodations and related material. For example, the regional municipality of Ottawa-Carleton's 1994 budget contains \$2.9 million for office accommodation. That's changes to accommodate the regional councillors and their offices. That's for capital.

Councillor Alex Cullen, who I think you've already heard, put out a paper estimating the added cost for the actual operation would be \$1.8 million. That's for the cost of taking Ottawa salaries and regional salaries and so on. On an ongoing basis, and assistance, you're going to add \$1.8 million. So maybe it's \$1.5 million; maybe it's \$2.5 million. They're based on his estimates. It's increased cost. You know what happened in Toronto when a similar system was developed. Members of the committee, this is not in tune with the will of the electorate. I think you know that.

Delay in finalizing what election system will be in place for this year's elections is also—take potential candidates. I think our clerk outlined very clearly the problems of potential candidates and I'm not going to get into that in great detail. But it's really not fair to go

ahead with this system right now. It's better for the incumbents, but for people trying to become involved in municipal government, they are at a disadvantage and that's not a good democratic system. There is an added burden on municipal staff, as indicated, and costs in attempting to prepare for the November elections.

Nepean recommends Bill 143 be amended to ensure new regional wards respect municipal boundaries, or as a minimum be more equitable in the distribution in terms of population throughout the region where shared with other municipalities.

#### 1600

Bill 143 will suspend the statutory rights under the Municipal Act for councils of area municipalities in the region to determine the number and boundaries of wards. When Nepean put in its position, at one time we were going to have a five-person council; now it's being mandated a seven-person council.

Nowhere else in Ontario is this type of thing proposed, where it's being imposed upon you.

The wards proposed by the minister for Nepean do not reflect community of interest, natural boundary lines or population trends, nor do they recognize the north-south development patterns.

The only opportunity for the public to comment on local and regional boundaries was three weeks during the summer period—entirely inappropriate.

Nepean recommends Bill 143 be amended to permit municipalities to retain their right to determine their local wards and the number of elected representatives.

Nepean ratepayers are opposed to the establishment of a regional police service, effective January 1995. Residents have been competently, efficiently and economically served by their service since 1964. They do not accept increased costs for both startup, ongoing operations, loss of local identity and loss of the present sensitivity of the police service to community values and priorities.

Commissioner Kirby identified the increase in taxes for ratepayers in Nepean of this initiative. It was based on 1991 data and he estimated it at over \$1.6 million annually. This is unacceptable and there is no evidence that the quality of service will improve in our municipality. In fact, and based on a number of people who attended our hearings from other parts of Canada where this has happened, there's a real fear that there will be a reduction in service in Nepean.

Two independent reports, Price Waterhouse and Judge René Marin with his review of police services, have documented that it will cost millions of dollars to establish: startup costs for a regional service. There is no provincial commitment to a specific amount of money for startup, phase-in costs and added ongoing costs. There was a promise from the minister that the provincial taxpayer will foot some of the bill, but not with a specific amount of money and not for a commitment for the entire amount. Added costs locally and provincially are what this bill will achieve.

Nepean recommends Bill 143 be amended to maintain existing police services in Ottawa-Carleton. If not, then full provincial funding of startup and a share in the

operational costs should be guaranteed, as well as receipt of the same level of provincial grants for policing as other regions. Unfunded liabilities and debts of some local police services should remain with the taxpayers of those municipalities through special area levies. That's only fair.

Bill 143 transfers exclusive authority to the RMOC to acquire industrial, institutional and commercial land for economic development purposes. This proposal is in direct contrast to the government's Bill 40, the Community Economic Development Act, which attempts to stimulate economic development activities at a local level. All other municipalities in Ontario, outside of Ottawa-Carleton, will maintain the right to develop local business parks.

Nepean ratepayers agreed with Commissioner Kirby that the regional municipality should have primary responsibility for the development and implementation of economic development strategy. However, they never envisaged that this would not be done in partnership. Some of the statements that were made earlier—there's a tremendous temptation to comment on them: "Oh, the reform has been talked about for years," and all these time-worn clichés. Some of the things that are in this bill weren't even discussed with Kirby.

We pride ourselves on working cooperatively with the business community, area municipalities and the region to stimulate economic growth. And when I say "the region," I mean "the region." In Nepean, we have been fairly successful: a 7.9% increase in local business, an 11% increase in employment opportunity since 1990.

We have currently three municipally developed business parks. In fact, we did the very first serviced municipal business park in Ottawa-Carleton and I can assure you the Ottawa-Carleton Board of Trade was extremely thankful that somebody was putting land on the market. Their position is that the more serviced land there is on the market, the more opportunity there is in Ottawa-Carleton. Don't just direct it all in one spot. Our last one is done in partnership with the private sector.

The Ottawa-Carleton Economic Development Corp, the regional municipality—I don't know if anyone is presenting the position of the regional municipality of Ottawa-Carleton on Bill 77, which is now Bill 143, but if it would have been followed, there probably wouldn't have been any of the problems because there is a very clear position by the regional municipality of Ottawa-Carleton on a number of issues and I hope you have the opportunity to read that. At any rate, the regional municipality, the chamber of commerce, all support the region having permissive authority in this matter, not exclusive.

Nepean recommends Bill 143 be amended to provide the regional municipality of Ottawa-Carleton with permissive authority to acquire lands for economic development purposes.

Bill 143 proposes to remove the 11 area mayors from regional council. This will be the first time in Canada that the head of a local municipal council is not a voting member of an upper-tier council. Nepean ratepayers are extremely concerned with this proposal as it severs a traditional and essential communication link between the

two levels of government. It becomes even more important if regional councillors are no longer permitted to serve on both councils.

The position of mayor is viewed by ratepayers as a senior municipal official, the chief executive officer, charged with representing the views of all residents on any municipal issue, whether local or regional. I think that when you asked the gentleman earlier the question—the first person mentioned—he didn't care if it was a local street, didn't care if it was a regional street, but if they phoned the mayor's office, they had somebody who was accountable who they could turn to, to look to try find a solution to the problem.

Numerous municipal councils across Ontario have notified the minister of their concerns with this proposal. The Association of Municipalities of Ontario last summer approved a resolution supporting the position that heads of council should be on upper-tier levels of government.

Nepean recommends that Bill 143 be amended to permit area municipality mayors to be voting members of regional council.

In summary then, Bill 143 as it stands is not good legislation. It does not have the support of Nepean residents, nor do I believe it has the support of the residents of Ottawa-Carleton. If you go back to the survey done by Kirby and compare the results, do another survey and read your correspondence, I think you will clearly find it does not have the support of the residents of Ottawa-Carleton. I would challenge you, if you think this is a good bill, to place it on the ballot on the next municipal election.

**The Chair:** There's time for one brief question per caucus.

**Mr David Johnson:** I thank you very much, Mr Mayor, for an excellent brief and you've raised so many excellent points: the regional government and its position. It's interesting that here's a government commenting on its own future and it's significantly different from what the government is proposing. We're not even listening to the government that's directly involved.

Perhaps one quick question: You've raised the issue of costs, which all ratepayers are deeply concerned about in this day and age.

**Mr Franklin:** Absolutely.

**Mr David Johnson:** You've said Councillor Cullen has estimated \$1.8 million in terms of added operational costs just for elected officials. We know there will be added costs for the police service.

**Mr Franklin:** Absolutely.

1610

**Mr David Johnson:** Have you done any kind of analysis? Have you been able to come up with a bottom-line figure of what this is going to cost?

**Mr Franklin:** It's difficult, for example with policing, to come up with an estimate. I believe that if you're going to implement something—and again, there was a lot of hogwash earlier about crime doesn't stop at municipal boundaries. Of course it doesn't, but there's a lot of cooperation going on and there's a lot of joint work



on drug squads and so on that is currently going on. There's a lot of joint work. Indeed, there's a lot of cooperation and there are a lot of changes that can take place and in regional government have been taking place. The whole notion that there's been no change is hogwash. Just look at all of the things that have changed in Ottawa-Carleton in the last 10 years, done cooperatively.

In terms of working out the cost, it's hard to do until you know what the plan is. It would seem to me that you look at the plan and say, "Well, here's plan A, plan B, plan C, and with that we can assess some costs, and is it a good thing?" instead of just saying, "We're going to do it." All we know is it's going to cost millions. The minister has said, "We're going to provide some funding but we don't know how much." We know that some of the municipalities in Ottawa-Carleton can opt into the region or can opt out, so you might end up with region here, OPP here, region here. We could end up with a real hodgepodge there too. There's no plan developed. It's just a principle.

We don't know how much it's going to cost. It's going to cost the taxpayers of Ottawa-Carleton millions of dollars, and I predict that if this goes through, even on simple things like representation, when people find out what it's going to cost in the city of Ottawa—and they're getting confused; they're now going to be voting for their local councillor, and then, "Well, what's the regional councillor?" people in Ottawa are going to be very upset when they get this confusing system and find out it's costing them a lot more money. So, no, I don't know an exact figure—millions.

**Hon Ms Gigantes:** Mr Mayor, you and I have had this discussion before, but I want to pick up on one comment by Mr Johnson, and that was based on his reading of your comments about how regional council had recommended certain things to the government which were ignored. On that regional council, which is the same regional council which accepted the budget that you note on page 6, containing a \$2.9-million line for office accommodations for the regional council that would be elected in future, in both instances the mayors sat.

**Mr Franklin:** Yes.

**Hon Ms Gigantes:** Yes. So in fact the very mayors who are telling us publicly that they think it's an outrage about the cost that will be associated with the new regional council sat on the council which approved the budget, as I understand it.

**Mr Franklin:** Do you want a comment on that?

**Hon Ms Gigantes:** Sure.

**Mr Franklin:** I'd be pleased to comment on that. First of all, I think if you check the voting record you'll find that many of the mayors indeed didn't vote for the \$2.9 million. Regional council was in a very untenable situation. They're going to have to provide office space because of this bill; they're going to have to spend money to do it. There is an estimate that had been provided. So what more than half of the members decided to do was to say: "This bill is coming through. It appears they're very determined to put it through, so we've got to be realistic and put the money in the budget." A number

of other people said, "This is nuts," and voted against putting the \$2.9 million in the budget. But some of the people who voted for it weren't voting for it because they wanted it; they were voting for it because they had been told that this was going through and that they really didn't have any choice, so when regional council became operational and the new regional councillors were there they would have some offices for them and their assistants. So the cost is being dictated by the new structure.

**Mr Chiarelli:** I'm told that I only have about one minute and I would like to have gone into some of the things in some detail, but I want to ask you a question as a member of regional council, not as the mayor of Nepean.

You were talking about how untenable regional council's position was on a particular point. How untenable is this bill to regional council as a council? The reason why I'm asking that is because I recall receiving resolutions from the regional municipality of Ottawa-Carleton, briefs from the regional municipality of Ottawa-Carleton, setting out its position as a municipality on this bill. We have the government members of the committee here today. These are the people who are going to decide whether there are any amendments or whether this bill is going to go ahead in its present form.

I think the members of the opposition, most of us coming from this area, have had a lot of dialogue. Can you tell me why the regional municipality of Ottawa-Carleton is not on this list of presenters presenting the position of RMOC to the government members on Bill 143?

**Mr Franklin:** No, I cannot answer why the RMOC is not here. In fact, I should say there are a lot of people who were not aware that they could get on the list and there are a lot of other people upset that the list was closed off before they were even aware that indeed the hearings were taking place.

However, I don't know if the RMOC was aware that there were public hearings taking place; I don't know if the chair was aware. But clearly, there was no opportunity for the council to decide to come forward to these public hearings because they happened so quickly. I guess you'd have to ask the chair that question.

**The Chair:** Thank you, Mayor Franklin. The committee appreciates you taking the time to appear today.

**Mr Franklin:** That's why I want you to read the RMOC brief on Bill 77. In addition to that, I'd like to leave for the committee various cards and letters that we've received from residents, along with our brief. This represents the results of letters and faxes and so on that have been sent in to Nepean, to my office, over the past year.

#### CITIZENS FOR GOOD GOVERNMENT

**Mr Tom O'Neill:** My name is Tom O'Neill and I'm here as a member of the Citizens for Good Government as well as a taxpayer of this region. I want to thank you for consenting to the Citizens for Good Government's request to hold public debate here in the Ottawa-Carleton region on this very important bill.

I'm here to ask you to make one small change to Bill



143. This one change will allow all parties to win. Bob Rae can state that his government has made good on their commitment to reform local government and the taxpayers will not see an increase in property taxes this year.

My request is to change the implementation date of Bill 143 that does not relate to the education portion until 1997. This will allow my committee the opportunity of placing this question before the people of the region on the November 14 ballot. We strongly believe that the ultimate decision on any reform package must be by the people and of this region and not from people in Toronto.

Let me say that we do not oppose change. We support positive reforms. However, Bill 143 as it stands now is seriously flawed. It will harm this region should it be passed without changes. Bob Rae and Ed Philip are rolling the dice just as Brian Mulroney did in 1992. This government has not provided the public with any financial documents to allow proper dialogue on this very important issue.

I would like to state how disturbed I was to read in the Ottawa Citizen yesterday that your committee will only be allowed to hear 30 residents out of 600,000 people in the Ottawa-Carleton region because of the strict criteria that this government has established on this committee and on this bill.

The minister has introduced his own changes that are not supported by his own commissioner, Graeme Kirby, whose report is the basis of this reform initiative. The taxpayers of the province paid \$500,000 to the Kirby commission, only to have it ignored by the minister and the Premier.

Bob Rae and Ed Philip have had to pass special legislation to allow them to make these amendments to override the Municipal Elections Act, which took effect January 1, 1994. I find this special legislation an attack on a democratic system of government. The rush to implement this by November seems to raise serious questions about the motives of the New Democratic Party of Ontario. I cannot recall any democratic system of government in the western world which attempts to redefine electoral boundaries as well as the number of elected officials just weeks before an election. I would expect this to occur in the former Soviet Union, but not here in Canada.

I have some questions on 143 that the bill doesn't answer. Why hasn't the idea of two police forces or departments been recommended, one to encompass Ottawa, Vanier, Rockcliffe, another to encompass Nepean, Kanata, Gloucester, Cumberland and the surrounding townships?

The number of minority representatives will be reduced on the police services board, as a result of the merger, from the present number today. I do not believe that a large police force will be good for the taxpayers of this region. One only has to look to Toronto and Montreal to see the problems of how large police forces relate to minorities. I do not want this to happen here in Ottawa. A merged police force will not have more police officers than it does today. However, the cost of this merger will increase property taxes on every household in this region.

Walt Disney recently made a movie called Blank Check, where a child fills in the amount of \$1 million. Bill 143 does not only make this movie real, but the cost of this bill will increase property taxes by more than \$10 million. I'm here to say that the taxpayers of this region are not prepared to write any more blank cheques without seeing facts and figures first.

1620

Bob Rae is promising jobs, jobs, jobs. Bill 143 will create jobs, jobs, jobs. However, more politicians are not the kind of jobs we need. We would be better off to have a value-for-service auditor established in the Ottawa-Carleton region, reviewing the spending and operational budgets of all local governments, including the school boards, and make public its findings annually, rather than adopting Bill 143 as it stands.

The Carleton Board of Education last year found \$3 million within its own budget. That finding concerns me, how a government could misplace \$3 million, or 1% of its total revenue. Has the ministry responsible proper safeguards to prevent this from recurring? Have the regional taxpayers been overcharged? Today, the Carleton Board of Education is looking for \$12 million to meet its budget requirements. I ask you, will Bill 143 address these concerns? The answer is no.

The regional municipality of Ottawa-Carleton is planning to spend millions of dollars to build a facility to host festivals on its property on Laurier Avenue which will directly compete with the city of Ottawa facility at Lansdowne Park. Parks, recreation and culture are not within the mandate of regional government, yet the Ministry of Municipal Affairs has not questioned why the chairman, Peter Clark, would allow this duplication of services to happen. I ask you, would Bill 143 address these concerns? The answer is no.

The taxpayers want good government, accountable government. The removal of mayors from regional council is an insult to all residents in Ottawa-Carleton. I think it's unacceptable. I find it unbelievable that the mayor of Ottawa, the capital of our nation, elected by over 300,000 taxpayers of Ottawa, would be restricted from sitting on regional council because of 143. The only people able to speak for the entire community are the mayors, since they are the only ones elected by the citizens at large. Regional councillors will only be concerned with their own wards. That is why I support having the mayors to stay on regional government. I want the same treatment for our mayors that the mayors of Toronto have; nothing more and definitely nothing less.

My request is to defer the passage of Bill 143 until the people have had the opportunity to vote on these reforms on November 14. However, should Bob Rae and Ed Philip decide to implement this bill, I would suggest that they change the party's name from the New Democratic Party of Ontario to the New Dictatorial Party of Ontario, which will truly reflect how they've treated the taxpayers of eastern Ontario.

**Hon Ms Gigantes:** I can accept that your timetable is different from the timetable which the government announced when it considered the prospect and the task of undertaking Ottawa-Carleton regional reform back in

1990, but I'm wondering, were you aware, are you aware now that the Minister of Municipal Affairs, Dave Cooke at that time, laid out a process which involved the establishment of a commission, which turned out to be the Kirby commission, and a period of review of the recommendations and then the tabling of a bill, which occurred in July 1993 and then the moving forward to legislation, with the clearly enunciated goal—and again I stress that this was undertaken in the fall of 1990—the clearly established goal of providing a new structure for Ottawa-Carleton regional government that would form the basis for the elections in 1994? Were you aware of that?

Further, were you aware of the government efforts to move along that very well identified path during the fall session and have second reading accomplished in the Legislature by the time the House adjourned for Christmas and the undertaking in the period between Christmas and the startup of the spring session of hearings?

**Mr Tom O'Neill:** The answer is yes. Mark Maloney summoned a number of people and Len Potechin, of the Ottawa-Carleton Board of Trade, way back in 1992 or 1991 regarding the possible reform; at that time it was David Cooke. What we're talking about here today is Bill 143. Bill 143 has recommendations which I spoke to at the Kirby commission a couple of times, and I don't see it there; I see it in the Kirby report but not in Bill 143.

**Hon Ms Gigantes:** But you're aware it is the time-line question that I was asking about.

**Mr Tom O'Neill:** Allow me to speak, please. The removal of mayors is not in the Kirby report, but it is in your bill. This bill as it stands today is not what we talked about in public.

**Hon Ms Gigantes:** Yes, but the time-line question was one that was clearly identified at the beginning. I'm just trying to establish that he knew what the time lines were.

**Mr Tom O'Neill:** We had a public consultation here in Ottawa-Carleton. Hundreds of people attended. We spoke to Kirby. We gave him our advice. He took some; he did not accept all. We have reports. However, Kirby has put out a report which recommends mayors on council, yet this government in Bill 143 does not include that.

You asked me if I support this. The answer would be no. The taxpayers of this region do not support it because we were not consulted. We are aware of the process. The process is two people talking, with a solution at the end. Our solution was encompassed in the Kirby report.

**Hon Ms Gigantes:** Mr Chair, that wasn't my question.

**The Chair:** Thank you. I realize that. Mr Daigeler.

**Mr Daigeler:** I don't think you were here earlier on this morning at 9 o'clock when the mayor of Ottawa came before the committee, but I recommend to you and in fact I undertake to send to you the Hansard when it becomes available, because I think the mayor of Ottawa said it in even stronger terms than the member for Ottawa Centre has said it: that those people who are not in the city of Ottawa and were not in favour of these reforms should get out of the horse-and-buggy age and move into the 21st century and stop being afraid of change, and that

the thing that really should have happened is one-tier government, and that this is a great step towards this, and those who are against it better wake up and get with it. I'm just wondering what your reaction is to that.

By the way, the same point was also made, perhaps not precisely in those terms but in very similar terms, by the Ottawa-Carleton Board of Trade. I'm just wondering what your comments are to that, because the Minister of Municipal Affairs certainly has made much of the support from the Ottawa-Carleton Board of Trade and from the mayor of Ottawa.

**Mr Tom O'Neill:** It's a good point you brought back Len Potechin's comment; it was an interesting one. I'd like you to tell me where the fire stations are across the street, anywhere in this region. It's easy for a committee to come here and say, "I represent someone, and here's a zinger for you: We have fire stations and firehalls across the street because there are boundaries." I'll ask you right now—the province, it is your responsibility for fire safety; you have the inspector's office—show me where we have the boundaries where they are across from one another.

Len Potechin and I go back a number of years on this. We oppose. He's for one tier; I'm opposed to one tier. One tier does not solve problems. Proper legislation, proper procedures, more accountability—these will reduce the problems we face as government.

1630

I work for the federal government. We are going through restructuring, and I understand it, but do it in public, do it in consultation with the people. Do not come forward with a bill such as 143, with amendments after the dialogue has ceased to happen, and put it before us and ask us to support it. This is an offence. I cannot believe you would run for public office, asking the people to support you, and then turn around and come out with a bill that says, "We've listened, but these amendments are what we want, not what the people have asked for, not what your commissioner has asked for," which is to put the mayors on council.

**Mr David Johnson:** Commenting on that last aspect of firehalls across the street, that's a valid question. I wanted to ask that myself earlier when it came up but didn't get the chance.

**Hon Ms Gigantes:** It's not affected by the bill, in any case.

**Mr David Johnson:** Add that on from her time.

**Mr Tom O'Neill:** No, but it was from a committee person who came here with qualifications and said one-tier government will resolve these. There is no problem there that exists today.

**Mr David Johnson:** You're falling into the trap of being baited, so resist; just ignore that side of the table.

My experience is that the local municipalities have barely enough money to do what they have to do because they're very cautious about how they spend taxpayers' money. Far from having firehalls across the street, they actually cooperate back and forth with each other and do what they call cross-border calls to cooperate. It's a very efficient and effective service.



You're right there in the grass roots with the Citizens for Good Government committee. Not being from the Ottawa area, I'm being told that the citizens in the Ottawa area are clamouring for this change and that they can't wait for 1997, that they have to have it immediately and they're going to be really disappointed if these changes don't go through. Is that your experience?

**Mr Tom O'Neill:** I'd have to say honestly that the people I've heard for change to one-tier government are politicians and the business community. The business community believes there are going to be less taxes, which I find funny. The ultimate person is the taxpayer. We support business, we support governments through the distribution of our wealth. We decided that we don't want one-tier government. I've relatives in all boundaries, including in Quebec. In Quebec they've turned down the idea of one amalgamated community. We don't want it here in Ottawa.

If you're really that stuck on it, put it on the ballot, unless you're scared. Put it on the ballot and let the people speak, the old principle where democracy was 100 years ago. We've got technology that has moved us ahead faster than ever before. We can do this ballot very easily, if you're really curious. I know the member for Ottawa Centre thinks one tier is the answer. It's not the solution; the solution is better laws.

**The Vice-Chair:** Mr O'Neill, thank you for your participation today.

VERN RAMPTON

**Mr Vern Rampton:** I'm Vern Rampton. I don't officially represent anybody but I feel that in a way I am representative of a lot of people. I live in the large township of West Carleton, which is an amalgamation of three former geographic townships. I'm a small entrepreneur who's lived in that township for 25 years and tried to operate as an independent businessman. I must say, we enjoy the privileges of being an urban fringe rural township in that we have our own lifestyles but we can enjoy the benefits of the city of Ottawa and the regional municipality.

My main concern is that to continue to thrive in our situation we need productive interaction between regional and township governments. We require both governments to function in a manner that both operates efficiently—and by that I mean delivers their product as economically as possible—and provides for our social, recreational, community and business requirements.

The only issue I'm going to address today, because it's the main issue to people in the rural townships—and I was surprised to see the last presenter say that businessmen all support one-tier government, because we certainly don't, and I'll tell you why a lot of rural businessmen don't.

My belief is that most of the requirements can be met by having the rural mayors represent their constituents on regional council, even if it were the case, as it was suggested at one time—and I'm not sure if it was suggested by the minister or the mayors—that their vote be weighted to allow for the representation by population that bothers some people.

The remainder of my brief is to explain my reasons for this. There are really four reasons. One is to get true representation. I feel that the mayors would best do it. The second is for accessibility of citizens. Even to the regional government, it's best through the mayors. Third, for cooperation and coordination between townships and the region, I think it is best to have the mayors on the council. Fourth—and I think this can be argued both ways, that it's most economic with them on council and with them off council, but I think it really is. I'll quickly go through these four points.

On representation, our broad geographic area would make it impossible for one elected representative to bring the varied concerns of the citizens from three very large rural townships to regional government. Our representative would represent West Carleton, Goulbourn and Rideau. Each has a different history, different problems, different perspectives that demand its own treatment even under regional government, things that a regional government handles. This would be extremely difficult for one individual to do because of the broad area and the fact that the offices will probably be at regional headquarters. Rural residents today are starting to feel disenfranchised by the provincial policy of not only the last government but the last two or three governments, and this really appears to be another step towards less representation. Please reverse this trend.

As far as accessibility is concerned, at present, at least in our township, most citizens have easy access to the mayor and his support staff at the township's office. There's a feeling that he is part of the community, that we are welcome to express our views and concerns and that we will actually have them acted upon and relayed to regional government as necessary. I don't believe that access will be easy with an elected representative, who will probably have his primary offices in regional development headquarters. For us in this large rural municipality it involves driving into the city, parking, going through security, and some people are going to find that intimidating. It really doesn't facilitate communication from our residents. There's just not the ease of accessibility.

The example to illustrate this is school boards. We elect our school board members, and today I can't even tell you who it is, because he doesn't really have—or she; I think it's a he—a local office. So how in the hell can I drop into the office and talk to him? That's important, at least for smaller entrepreneurs. I'm a small developer. The big developers can pay guys to sit in those offices, but we can't. I think it's really important that that happen. The school boards are the perfect example, and they're spending 50% of our tax dollar.

Coordination and cooperation: Perhaps the press or somebody has said, "Each of these rural mayors acts as their own little local warlords and they're not going to let anything happen at region that's for the benefit of all." But if you squeeze them out of the regional council, I think that's going to force them to act that way to protect their turf. When they go to regional council, they have to make the compromises, the great Canadian compromise where we often get nowhere.



Economics: We can argue this for ever, but I really think it would be more economic to have the mayors there rather than an elected representative. He's going to have to have a salary and a staff, and I think a lot of the stuff that staff does is going to be duplicating present regional staff plus what's being done out in the townships. I've never really seen solid facts on the economics of it, so that's maybe not the strongest point.

I'm a little concerned. We did have the Kirby report. Mr Kirby came out, heard all our concerns, and it was my understanding that his recommendation was for the mayors to be on regional council. Basically, this brief was put together pretty quickly because I thought his report was going to put it to rest, even though it came in and out of the press and in and out of the Legislature. I really don't understand, after the provincial government sent out Mr Kirby to do these intensive hearings and put together these recommendations, why it doesn't follow his recommendations on the mayors being on regional council.

That's all I have to say today.

1640

**Mrs O'Neill:** Thank you, Mr Rampton. I think you were very accurate when you talked about Goulbourn, West Carleton, Rideau and there being difficulties regarding a community of interest. As I understand, a ward boundary's going to go right down the middle of the town of Stittsville: One side of it's going to be in one ward and the other side's going to be in another. It's important to understand that even in small towns a community of interest is not being recognized.

I'd like you to say something about the economic development aspect, since you did say you're a businessman and that does seem to be one of the areas where we are having the debate, whether it be permissive or whether it be mandatory. Maybe you could say a little bit about that, because you no doubt have dealt with all these levels of government as you have planned your endeavours.

**Mr Rampton:** Yes, I've dealt with all levels of government. The biggest thing that affects rural residents—we automatically see the regional roads being serviced, so forth and so on, but planning is the big issue. The region does planning and the township does planning, but a lot of the things the region implements directly affect us. I can go in and talk to regional planners but when it comes down to the nitty-gritty, we have to almost rely on somebody in our own township to run in to region to try and request that the planning be done to reflect our needs.

Thus we have to have somebody who's right in our township who we can address and tell him: "We don't agree with that" or "We agree with that," or "Could you change it slightly to integrate it?" It's really hard—if we just had somebody sitting in regional government, regional headquarters, to have the interaction.

I must say, I've made presentations to the Kirby report, I've made them to the Sewell commission. In rural Ontario, we really feel we're paying the price for a lot of things that are being planned in Toronto, not necessarily

by this government but by the last two governments; this government has the joy of implementing them. You haven't been around this region, but they're now starting to implement wetlands policy.

**Mrs O'Neill:** I'm getting letters on that, yes.

**Mr Daigeler:** That's this government.

**Mr Rampton:** This government is implementing it, but it was originated, if not with the last one, then the previous one—whatever. The problem is that it was an academic exercise that everybody supported, including rural areas, but now in the implementation the rules are wrong. People are really angry. It's not developers like me; we're used to having everybody try and conduct our business for us, but small land owners are really angry about this.

We feel, in many cases, that the only person we get a sympathetic ear from is our mayor or reeve and that he has to carry the torch for us. We're worried that we just wouldn't have that access with one person who's stationed in downtown Ottawa, basically.

**Mr David Johnson:** I congratulate you for your deputation. Speaking of the Sewell commission and the government's response, A New Approach to Land Use Planning, I would very much like to see your material on that so I may somehow get in contact with you, because I've heard quite a number of bad things about it from the rural area.

Getting back to this bill, you've commented on the warlord situation. We've heard this morning once or twice—Councillor Cullen from the city of Ottawa is one—that the mayors act in a parochial sense on the regional council, and he's not in favour of them being there because of that situation, that they're too parochial. My position to him was that he calls it parochial but I could call it being responsive to the needs of the local citizens. If they don't represent their citizens, who on earth does? I wondered what your comments would be in that regard.

**Mr Rampton:** Whether you call it parochial or representative, I agree with you that they express the viewpoints of the citizens, and in the end they have to compromise. It would be better that they be exposed right at regional council to do that compromise, rather than sit out in isolation saying, "We're not going to do it that way, we're going to do it this way." I think they would be even more parochial if they were shut out of the regional council.

My understanding of Kirby's recommendations for regional council was that there were going to be elected representatives and then there were going to be the mayors on the council, and they would actually be outvoted by those elected representatives.

But the important part, more than the vote, is that they bring the concerns, and if the rest of the people at the regional council say, "No, those aren't valid concerns," or "They have to be changed this way," at least they've heard those concerns. I'm just afraid they wouldn't be heard if it was just this one elected representative.

**Mr David Johnson:** My final comment is the part of your brief that you've underlined, which is what we

should really be focusing on: that the governments should be required "to function in a manner that both operates efficiently—delivers the product as economically as possible—and provides for social, recreation, community and business requirements." That's what we want to set up, a structure that does that.

There's been no demonstration that I can see through this process that that's been a criterion or how that has been established, that the level and structure they're setting up is going to deliver efficiently and effectively, and I can see no cost analysis in what has been proposed by the government. I'd just ask for your comment on that.

**Mr Rampton:** Because we don't see any figures to chew on—I mean, some people think there is going to be a saving of money. I personally don't see it, because I think this elected representative will require a lot of staff. He's going to have to have people brief him on township concerns. In the rural areas, at least, I understand it: It's hard to get that thing through from the rural representative up to region. If he's going to do it, he's going to need a staff to brief him. I think eventually he's going to be going back to the mayor anyway to find out: "What is the problem? What do we need addressed at region in the overall planning or whatever?"

**Mr White:** Thank you, Mr Rampton. I was very interested in your proposal. There are a couple of things I want to pick up on, first off, the issue of how your area will be represented. Given the population of West Carleton, which is around 13,000, 14,000, if you were to extrapolate that on a regional level, if you had roughly the equivalent number of votes at the regional level, the city of Ottawa would have—what would it be?—about 40 members on regional council.

**Mr Rampton:** It's got 300,000, so if you do the arithmetic, you've got—

**Mr White:** Well, quite a few. One of the principles that's put in place here by this bill for this area is the same as for the whole of Ontario, that you give some community of interest a preferential treatment, for rural areas versus urban areas. Those kind of things will be reflected. But representation by population—how large a council do you think should exist?

**Mr Rampton:** I've thought about that. There are a couple of things I'd like to speak on. In Canada, it's a country-wide problem and it's a province-wide problem. We have concentrations of population and then we have people out in rural areas, northern areas, whatever, who really feel they're looking after these areas—I forget what the word is—and they want some representation. It's almost the case of the Senate and the elected representation, where you have the Senate as sort of regional representatives. So I think there is justification for some overrepresentation of rural areas.

But my suggestion—and I don't know whether I went through it too quickly—is that the mayors have a weighted vote. Maybe the mayor of West Carleton would only have the equivalent of 25% of a vote. I think this has been presented at hearings before on this. My feeling is that he has to have a vote to make sure that he counts at all, but his vote is not so important as that he's there

to make the case. I realize the problem with the population thing.

1650

**Mr White:** The other thing I was going to pick up on was the issue of policing. You're in an area where you don't pay for policing locally.

**Mr Rampton:** That's right.

**Mr White:** I'm wondering, in terms of the equity of that, how you feel that should be dealt with. You don't pay for policing in your local area, whereas people in the city of Ottawa or in Nepean or certainly in my area, in most of the rest of the province, we either pay directly for the local police force or we pay via contract for the Ontario Provincial Police, but you receive that service free. Do you think that's something your area should be paying for?

**Mr Rampton:** Personally, I think we should pay for it, but I'm not addressing that here and I'm not sure that's dealt with in this bill, whether in West Carleton the OPP would continue to police us or not.

**Mr White:** It is, yes.

**Mr Rampton:** It is. Okay. So we're not going to have the OPP in West—or they'd be under contract and we'd pay for it through taxes?

**Mr White:** You'd be paying for it as part of the regional bill, yes.

**Mr Rampton:** Yes.

**The Vice-Chair:** Mr Rampton, thank you for your presentation today.

#### FEDERATION OF OTTAWA-CARLETON CITIZENS' ASSOCIATIONS

**Dr Allan Gregory:** My name is Allan Gregory. I'm appearing on behalf of the Federation of Ottawa-Carleton Citizens' Associations, or the FCA. I'm going to refer to the federation as the FCA.

It's an umbrella organization composed of approximately 25 community groups in Ottawa. We have taken an active and consistent interest in the reform of municipal government in the region for a number of years. Our direct involvement began in November 1989 when two of FCA's representatives met with the Ottawa-Carleton Liberal caucus to present our position on the Ottawa-Carleton regional review chairman, David Bartlett's, phase 1 report, which was entitled Accountability and Representation. Some members of the committee may remember that meeting, which was at Gloucester city hall.

Subsequent to that meeting, the FCA submitted a written brief to the Minister of Municipal Affairs of the day, the Honourable John Sweeney, and we also forwarded that brief to local MPPs. We're resubmitting that brief again today and I think you have a copy in front of you.

Turning to the brief, as the brief indicates on the second page, in the interests of time and space we don't repeat the overwhelming evidence, in our view, that the current system, appointing the chairman, which was true at that time, and councillors serving on both local and regional councils, is seriously and irreparably flawed.

Point 1 in our brief spoke to the election of the chair-



man of regional council. I should point out to the committee that our main concern, as it was in Mr Bartlett's first report, is with accountability and representation.

The objectives of accountability and representation can only be realized if there's a direct electoral relationship between citizens of the region and the person serving as chairman of the regional council; that is, the chairman can only be held directly accountable by citizens if they're directly responsible for the election of the chairman.

Further, in order for the chairman to lay legitimate claim to being a representative of the citizens, and for citizens to have a responsible voice in deciding who their chairman is to be, a direct electoral determination is required. Any arrangement other than direct election of the chairman of regional council denies the realization of those fundamental, interdependent objectives.

Our recommendation in 1989 was that the regional chairman be directly elected by the citizens of the region.

With regard to the election of regional councillors, our brief says that the same principles apply and the same logic holds in total regarding members of regional council. They must be directly elected by the citizens of the region on a ward basis if the objectives of regional representation and accountability are to be achieved.

In anticipation of, and with regard to, the proposition that mayors and/or members of local municipal councils could or should sit on regional council, it fails the acid tests of regional accountability and regional responsibility.

Further, and on abundant evidence, serving at both levels in a joint manner is not a necessary nor a sufficient condition for effective, efficient and harmonious intergovernmental relations or performance. Rather, and again as the ample evidence attests, we submit, the regional interest invariably suffers when local loyalties, needs or wants, or political careers are at risk.

Our recommendation was in 1989 that all members of regional council be directly elected on a ward basis.

Point 3 in our brief dealt with the nature and number of wards. Any *a priori* reference to existing local municipal boundaries in drawing the regional wards is a recipe for perpetuating the current entrenched state of parochialism which is embraced and vigorously pursued by local municipal officials throughout the region.

Regional services are regional services, period. As such, the ward should represent the distribution of regional services throughout the region. Most importantly, each ward should represent a judicious mix of the region's various urban, interurban and rural realities. These are reflected by the regional distributions of residents, enterprises, institutions, resources and amenities and the incidence of tax levies to fund the provision of regional services.

Our recommendation in 1989 was that there be 15 regional wards, and that ward boundaries be drawn to reflect regional characteristics without any *a priori* regard for administrative, political or other strictures of a local, municipal nature.

Those were our recommendations and the reasons for

our recommendations in 1989. Nothing has changed since then except for two things. One is that we didn't understand clearly at that time how inconsistent the current system of regional government is with the principle of representation by population. We didn't understand that at that time. We do now and clearly we would want to add that to our reasons for making the recommendations that we made in 1989.

The other thing that's changed is that we have become stronger in our conviction that the present system is fundamentally flawed and that no amount of tinkering can make it right, that no amount of tinkering can make it fully accountable and fully representative.

A year later, in September 1990, we made a presentation to the Ottawa-Carleton electoral boundaries commissioner, Katherine Graham, and a year later, in October 1992, we made a written submission to the Ottawa-Carleton regional review commissioner, Graeme Kirby. We have also made written representations to Mr Sweetney's successors as Minister of Municipal Affairs, urging them to proceed with democratic reforms to municipal government in Ottawa-Carleton as soon as possible.

As I'm sure you know, our first recommendation, the one that we made in 1989, direct election of the regional chair, was implemented by the present provincial government in time for the 1991 municipal election. The other recommendations we made are very similar to the legislative reforms now proposed by the government in Bill 143. Accordingly, Bill 143 has our full support.

1700

If you turn to the last two pages of our brief, you'll find that we have attached a couple of editorials addressing the issue of whether or not mayors should remain on regional council. One is from a rural newspaper, the *Stittsville News*. It was published in November of last year. I'd just like to draw your attention to the second to last paragraph. They're assuming mayors will not be on regional council. That paragraph states:

"Mayors will be able to devote all of their time to efficient and effective municipal government at the local level. Ratepayers of the local municipalities should be better served and end up winners, with mayors totally dedicated to the local municipalities and with regional councillors directly elected and accountable to the voters for regional decisions."

The second editorial you will find on the last page of our brief is from a Gloucester newspaper called the *Leader*. It too endorses the bill's provision that mayors will no longer sit on regional council, and it ends by saying:

"Let's hope the provincial government holds firm to its intention to reform regional government and continues to ignore the tantrums of the suburban mayors. They were part of the problem; they are not part of the solution."

We endorse the viewpoints expressed in those two editorials.

I believe that you are all aware that one of Mr Bartlett's recommendations in 1987 was for the mayors to continue as *ex officio* members of regional council. I believe that you also are aware now that when Minister



Philip introduced Bill 77, I believe it was in July of last year, Mr Bartlett was interviewed in Ottawa-Carleton, and he went on record as reversing his position on the local mayors being on regional council and he then supported the minister's bill and said that he had believed all along that the mayors should not be members of regional council.

We're convinced that the reforms contained in Bill 143 will improve the quality of decision-making of regional council and will result in its adopting a stronger regional focus. Both of these, we submit, are essential ingredients for good, fully accountable and fully representative regional government in Ottawa-Carleton in the 21st century. We urge you, when you return to the Legislature at Queen's Park, to recommend to the Legislature that Bill 143 be passed as quickly as possible.

**Mr David Johnson:** I appreciate your evidence today. I'm going to slip to the second page of your brief where it says there is "abundant evidence" that "serving at both levels in a joint manner is not a necessary nor a sufficient condition for effective, efficient and harmonious" government. I wondered if you would enlighten us as to what the abundant evidence is.

I ask that question because the Association of Municipalities of Ontario tells us that there is no other municipality in Canada where the mayors do not serve on the regional level.

The only other Canadian experience I am aware of over the years is in the city of Winnipeg, where precisely this structure was put in place, and exactly the opposite happened in the city of Winnipeg many years ago. It was far from harmonious; there was total warfare and the province had to step in because the two levels, which had no connection—the mayors did not serve on the regional government. There was warfare between the two levels and the province finally stepped in and made a one-tier level of government. That's the only experience I'm aware of from a Canadian context, so perhaps you would tell us what the abundant evidence is.

**Dr Gregory:** Some is quoted in our brief as reference to the way that regional council dealt with regional shopping centres in the official plan. This was in the late 1980s. We watched the regional planning committee and regional council very carefully on how they dealt with major issues in the regional official plan. We feel this was a classic case illustrating our position.

"The regional situation—regarding infrastructure (roads, sewers, etc) and area-wide planning considerations—was virtually ignored as councillors...cut deals in order to squeeze whatever they could out of the 'regional pie' for their respective municipalities". As the brief says, "There was no regional dimension to the deliberations" by council.

Another, more recent example is the way that regional council dealt with the issue of market value assessment. There too we felt that they didn't have a regional perspective, that they looked more to representing their local constituencies. As a result, market value assessment has been introduced and has hurt many people in the downtown city area.

With regard to the city of Winnipeg, I understood that it replaced its municipal government with a uni-city, with a one-tier—

**Mr David Johnson:** That was the second stage; the first stage was to separate the two and it didn't work. At any rate, what you're telling me is that then there is not evidence that shows that leaving the mayors off will work better; it's your view that the evidence says that having the mayors on is not working.

**Dr Gregory:** That's right, that's part of it, yes.

**Mr David Johnson:** But there's no evidence to show that the other way around works any better.

**Dr Gregory:** I'm not sure about that.

**Mr David Johnson:** Do you have any evidence that the—

**The Chair:** Thank you, Mr Johnson. Mr White.

**Mr White:** Thank you very much, Dr Gregory. I'd like to quote for you some of the remarks from Hansard. This is March 24 of this year, just a couple of weeks ago, "I don't know where the minister gets his information that the mayors should be removed" from regional council. What strikes me as a change about this is that I can quote that particular remark, or I could quote several others I see in Hansard, but there are a number of members who are suggesting that they're really surprised at the form this bill is taking, the particular structure that's being suggested. Yet, Dr Gregory, I see these members being cited as having received this letter from you four years ago, almost five years ago.

**Mr Daigeler:** There's no reference to mayors in this.

**Mr White:** No, I see clearly that you're talking about directly elected regional councillors.

**Dr Gregory:** That's correct.

**Mr White:** If I'm not mistaken, this letter doesn't speak to the mayors being on regional council.

**Dr Gregory:** I'd refer you to the top of page 2—actually, the pages aren't numbered, so the third page of the brief. It says at the top, "In anticipation of, and with regard to the proposition that mayors and/or members of local municipal councils could or should sit on regional council, it fails the acid tests of regional responsibility and regional accountability."

Our recommendation follows, in the middle of the page, and was, "That all members of regional council be directly elected on a ward basis." That speaks to our position.

**Mr White:** Yes, so clearly five years ago—

**Dr Gregory:** That's what we were saying.

**Mr White:** —the gentlemen whom you have copied here were informed of your position, and yet only a scant couple of weeks ago they said they don't know where this idea came from.

1710

**Mr Chiarelli:** Just a couple of very quick questions for Mr Gregory: In anticipation of Bill 143 passing in its present state, you're aware that at the present time there is local debate as to whether or not regional councillors would be full-time, part-time, their pay scale etc. Do you

anticipate any problems with Bill 143 if regional councillors are designated part-time, which is a possibility?

**Dr Gregory:** Yes, I do, Mr Chiarelli. Our position is that we support a full-time council very strongly. The reason we support a full-time council very strongly is to provide a counterbalance to the power that's invested in the regional chair's office at the present time. Without a full-time council we think that the regional chair's office would enjoy far too much influence.

**Mr Chiarelli:** Then one other very quick question: We had Mayor Holzman here this morning, the Ottawa-Carleton Board of Trade and Councillor Cullen, who support the bill in its present form. They referred to one-tier government and they basically see this, reading between the lines, as a step towards one-tier government. Do you see this as a step towards one-tier government? Would you be happy with this for the indefinite future? Would you prefer one-tier government?

**Dr Gregory:** I think many people do see it as the first step towards one-tier government. But I would say in response to the latter part of your question that the present system has been in place for 25 years. It has been studied to death.

This bill provides us with a fundamentally different regional government structure. It will be, in our view, much more democratic; it will be much more accountable; it will be much more representative. We think that this is a major step forward. It may be in place for many years, as you suggest, but I think we would settle for it now because it's such a fundamentally improved structure for regional council.

**The Chair:** I'd like to thank you very much for appearing this afternoon before the committee.

#### CARLINGWOOD COMMUNITY ASSOCIATION

**Mr Peter Cameron:** Good afternoon, Mr Chairman, members of committee. My name is Peter Cameron. I'm the vice-president of the Carlingwood Community Association. It's a west-end Ottawa community association, which lies within the boundaries of the Richmond ward.

With regard to Bill 143, the association position that we'll advance will touch only on the first two parts of the bill, that is, of course, the election of regional councillors and just briefly on the police services board.

It's the position of the association that we support this bill. In fact the previous witness, Allan Gregory, mentioned that there has been a long time before any change has taken place. There have been four studies over 20 years.

It's the view of our association that the bill is a very good step because the present system is untenable. In the political process, of course, nothing can ever be perfect, but at least it's a good beginning.

We really do believe that elections should be direct. All regional councillors should be elected. The dichotomy between the rural municipalities, the mayors, and the city of Ottawa, which is the major tax base for the region, does not serve well the citizens of Ottawa and the cities of Nepean and Gloucester and so on. So that is our clear and confirmed view.

With regard to the police services, and indeed as I heard the questions to the previous witness, it is very clear that this is a first step towards a control and a centralization of government, and it's probably long overdue. In the realities of the 1990s our municipal systems are based in the 1970s.

If you simply look at our new city hall, it's beautiful—it's reminiscent of the great castles of Europe. If you look at our new regional chambers, marble halls, they're beautiful. If you look at the city of Ottawa, it's subjected to four tiers of government: federal, provincial, regional council, city council. Of course, the National Capital Commission is in there somewhere and federal departments hold great land holdings in the city.

If you look at this, we are a very overgoverned population of a million people, and if you ask, "Is there general support towards a simplification of government in this day and age?" the answer is yes.

**Hon Ms Gigantes:** Coming from a community association, you surely have the same kind of sensitivity to the issue of whether locally elected officials respond to people in the community, and we have heard many people earnestly put before us the proposition that we will lose something if we do not have indirectly elected representation on Ottawa-Carleton regional council by way of council members and/or mayors—always "and mayors." I wonder if you as a community association have looked at this issue directly and what the opinion of your association is.

**Mr Cameron:** Yes, we have looked at it. Our view is really very simple: If there is a ward distribution system where the wards take into consideration most of the citizens—ie, you can divide them any which way you like; you can pie-shape them, you can get city and region mingled—so that the ward representative has a broad overview of the interests of the citizens, it's far better than the fragmented system we have today.

Let me give you—no, I'll stop there.

**Hon Ms Gigantes:** I was going to ask you for an example of what you would describe as untenable about the current situation.

**Mr Cameron:** There is a perception among some of our members that the mayors and the municipalities regard the region as their sugar daddy; it's the pot where the money is. Very narrow parochial interests go on in those debates to get their share of the pie, because they are elected for municipalities and they do not have the regional overview that is so essential.

What this bill is is a legal interpretation, if you like, of a political philosophy. All laws are that way. What we're saying is that the political philosophy that underlies our current system we now are not happy with and we want it changed. It's on that basis.

**Mr Daigeler:** Let me say, first of all, that I appreciate your position since you come from the city of Ottawa position, which I think you have clearly acknowledged. At the same time I have to come to the defence a little bit of the region, because the way you were talking, you'd think that we have a very serious problem here in the Ottawa-Carleton area.



But I challenge anybody to compare the achievements in the Ottawa-Carleton area to any of the other cities in Canada. I think most people who come here say, "What a beautiful city and region: the parks that you have, the roads that you have, the transportation system that you have." I am in Toronto now more often than I'd like to be. I tell you, the traffic is a lot worse there.

Something, despite the governments we've had or perhaps because of the governments we've had, has worked. We've got a good system. We've got a very low crime rate. When you look at what actually has been accomplished, I think the governments can be proud, all of them, including the regional government. I take that position. I say "including the regional government" because in Nepean we have acknowledged and we continue to acknowledge the importance of accountability.

1720

Longer than I can remember, we've elected Nepean councillors on a city-wide basis to regional council. So we have done that; there's no argument with this. But we're saying there has to be at least some link, at least to the mayors, and there has to be some consideration for the local regional interplay. Don't pit one municipality against the other. Do it cooperatively. It has worked up to now. There may be some improvements, but don't push aside everything that has been done before.

**Mr Cameron:** I'm not sure if there's a question there, but I'd like to offer a couple of comments.

**Mr Daigeler:** That's fine.

**The Chair:** I'll leave that up to you.

**Mr Cameron:** Thank you. Number one, Ottawa is a beautiful city. It's the nation's capital. No one can deny that the parks and the amenities here are probably the best in the country.

My only difficulty with the gentleman's question is, I don't know who I should thank for this. Should I thank the National Capital Commission? Should I thank some departments federally? Should I thank the regional council? Should I thank Ottawa?

**Hon Ms Gigantes:** You thank God.

**Mr Cameron:** And I thank God, of course. So that's the first issue.

The second issue is that if we're talking political philosophy here, let me take 30 seconds on this. The European Community runs a two-tier government system. Each nation elects its Parliament or its parliamentary equivalent and then it elects delegates to the European Parliament. No European nation, to my knowledge, sends its members of Parliament directly to represent it in the European Parliament.

The reason it doesn't do that is because of the conflict of interest that the member would face, because the interests of his constituency as a member of Parliament, and his Prime Minister, Thatcher or Major or whoever, if you talk about the UK, quite clearly differ from those of the European Community. So there are separate elections and the system seems to work quite well. That's a political philosophy, and we are talking about creating some kind of political system. I don't say it's perfect.

**Mr David Johnson:** Mr Cameron, I thank you for your deputation. Getting back to the point that was discussed earlier, you indicated that the present system does not serve the people well and you specifically mentioned three municipalities: Ottawa, Nepean and Gloucester.

We've had the mayor of Nepean here, we've had the mayor of Gloucester here, we've had the chamber of commerce from both of those municipalities, a police force from at least one or both of those municipalities, and they're all saying that the present structure does serve their communities well. So perhaps you can elaborate a little bit more. You haven't given me any evidence of that. You've kind of indicated something about a sugar daddy, but I don't know precisely what you mean by that. Where exactly does the present system not serve those citizens well?

**Mr Cameron:** The view of our association is that we are the governed. We're the folks who pay the taxes and we are the folks who acquiesce to being governed. That's the way our system works. It is the view of the members of our association that the present system is not efficient. We feel it is wasteful and we feel it does not serve the interests of the community at large as well as it should.

One of the difficulties is that we do not see the system of representation that is currently in place to be as effective as what is recommended in the bill, and that is why we are supporting this bill.

**Mr David Johnson:** Could you give me examples? We're all interested in examples of wasteful government. If there are any citizen groups that have their finger on where governments are being wasteful, I encourage them to come forward, because I agree the government is wasteful. There is no question about that: the federal governments, the provincial governments, all. So tell us, where is the waste in this setup, the structure we have at the present time?

**Mr Cameron:** Let's say I want to drive home, a simple, good example. I drive along the parkway. It's being patrolled by the RCMP. I get on to Woodroffe, which is being patrolled by one police force. If I drive just two or three blocks, it's patrolled by another police force. This doesn't make sense.

Let me tell you that one of the issues before government is the sharing of local services and the coalescing of administration. We have grown like Topsy in the 1960s, the 1970s and the 1980s, and now we're into the 1990s and in bad times. It's just not going to work any more. It's that kind of thing.

If you want me to bring out a litany of other stuff, I simply can't do it in the time available, but I think that very simple illustration is repeated many times in this thing.

**Mr David Johnson:** It's just interesting in that example that the figures that I have in terms of the policing in Nepean—and you specifically mentioned Ottawa, Gloucester and Nepean—the policing per capita in Ottawa is considerable higher than in the other two municipalities, cost per capita.

The numbers I have are \$127 in Nepean, \$122 in



Gloucester, \$168 in Ottawa. I've heard other numbers today that place the cost of policing higher in Ottawa and lower in the other two municipalities. In terms of the way the system is structured, based on those numbers, it would appear that the policing is being tailored to meet the municipalities and is being delivered at a least-cost fashion in the outlying municipalities, such as Nepean and Gloucester.

**Mr Cameron:** Two quick comments: I would have mentioned the other municipalities if I could have just rhymed them off, but I picked three of the bigger ones, for example.

Number two, I cannot argue on the effectiveness and efficiency of police, nor did I come prepared to do that. But if you have administrative structures duplicated in each sector, then quite clearly there must be economies of scale. Common sense tells you that.

If you look at the press, the federal government of course is looking at this in a very serious way. It's trying to provide administration, finance and so on for multiple departments from one locality. The provincial governments are making similar moves. Why would that not happen in municipalities?

**The Chair:** Thank you, Mr Cameron, for appearing this afternoon.

KIM MILLAN

**Ms Kim Millan:** Good afternoon. I'd like to thank you all for giving us the time to meet with you today.

Before I start, I would like to address Mr Gregory to indicate that we at the Barrhaven Community Association are not a member of the federation of Ottawa-Carleton community associations. I would suggest that you receive a list from him as to whom he does represent.

My name is Kim Millan, and I am president of the Barrhaven Community Association and chair for Citizens for Good Government. As a resident of Nepean and a proud Canadian citizen who believes in the democratic process and the right to vote, I am appalled at the lack of respect that this government has shown the public of Ottawa-Carleton.

According to Webster's dictionary, the definition of democracy is "government by the people, political and social equality." Is this the same definition that Minister Philip and Bob Rae use? Or is the word "dictator," defined as a person exercising unlimited powers of government, a term they are most familiar with? Mr Philip's article in the newspaper a few weeks ago stating that this bill will be implemented reinforces this definition.

Notice of public hearings was once again one of the world's best-kept secrets. It was only Tuesday morning that official notice was given to the public via the newspaper. Even then, it stated that the location was to be determined. The agenda, however, was closed Monday at 3 pm for public speakers. How do you expect to consult with the public when sufficient and proper notice was not given?

As this bill affects the whole region, public hearings should have been held at numerous sites across the region. The selection of the site and the minimal time allotted for Ottawa-Carleton hearings prove that these

hearings are mere tokenism. The combining of two distinct issues into one bill causes many people to be faced with a major dilemma. The issues of education and municipal affairs are important and distinct enough that they should be addressed separately. The combination of the two has forced individuals to challenge all when they might in fact not be affected by part. This action alone makes one wonder if you are trying to pull the wool over our eyes and confuse the matter.

1730

Insufficient notice and the limited time slots are not the only factors that hinder attendance at these hearings by the general public. Other reasons include the cost of commuting downtown, finding affordable and available parking in the area, the inability to take time off work, the cost of babysitters, let alone the stress of driving downtown for some senior citizens.

Let us not forget the fact that we are faced with a limit of 30 speakers on a first-come, first-served basis when there are over 600,000 individuals affected by this bill. I would like to meet the person in charge of your sampling techniques.

Please do not assume that because people are not present that they are in favour of this bill, as this is not the case. We, as a population, are faced with many pressures, both in the home and in the workplace, and there is not always enough time to stand up and be counted.

This is my third submission of comments plus two formal requests for meetings with Minister Ed Philip, which were denied. Is this government by the people? At this point, I would like to resubmit all of our comments plus read some excerpts. I do have a package here that I will leave with the clerk.

The terms of reference for the Kirby report, commissioned by Mr Philip, were "To consult with municipalities and the public on the degree of interest and support for the structural reform to municipal government in Ottawa-Carleton and for the direct election of members to regional council."

Mr Kirby's findings are summarized as: The people want responsiveness, the ability to reach directly those who take quick and appropriate action; accountability through representation, making decisions on issues of importance to their community; a sense of identity, to retain a community's individuality: cultural, linguistic and physical; to protect the qualities of life which are important to a community: tranquillity, sharing of responsibility, voluntarism, rural character; but most importantly, the people want fiscal responsibility: cost-effective services, the highest quality of services or functions at the lowest cost. "Do not increase our taxes" was heard at every public hearing.

When in Canadian history have changes to electoral boundaries and government restructuring been within the same year as an election, let alone within the same six months? Only Bob Rae and his government would violate the public trust and give his ministers powers to redraw the election boundaries and legislation that governs individuals running for public office only months away

from an election. The Kirby report stated that most importantly, the people want fiscal responsibility, cost-effective services, the highest quality of services or functions at the lowest cost. Bill 77 is perceived by many as a move to the creation of one level of government. Only 52% of the people of Ottawa-Carleton favoured a move to one tier, without regard to the cost. But if the cost of government was to increase as a result of a move to one tier, then 81% opposed the changes—99.3% outside of Ottawa and 64.9% of people inside of Ottawa.

It is hard to imagine that when everyone is trying to cut back on discretionary spending our provincial government would even consider the concept of a regional police force that would cost each of dearly. The cost will not only be in dollars and cents but in the decrease of safety measures taken in our neighbourhoods. The intensity of the downtown core would warrant more patrols than the suburban areas. Police patrols would not be as familiar with our communities or our children.

Price Waterhouse shows that the implementation of a regional police force would cause an increase in taxes ranging from \$4 million to \$11 million annually. The startup costs haven't even been addressed: uniforms, guns at an estimate of \$600,000, the cost of new cars, a communications one-time cost of approximately \$15 million. There are salary differentials across the region, there are pensions, sick leave and other union agreements that have to be negotiated. Is this fiscal responsibility?

It is very scary that, in this day and age of economic crisis, decisions affecting hundreds of thousands of individuals can be made without any regard to significant financial studies being completed. If business was run the way this bill is being implemented, then the result would be another statistic in the bankruptcy rate.

We have worked hard to live in a debt-free, pay-as-you-go society. This is something that individuals, businesses and all levels of government dream about. So why are we being forced into a situation that denies all logic? No one knows the implications or impact that this bill will have from a financial perspective; there is only speculation. Speculation indicates that there is an increase to all taxpayers in the region. The one thing that everyone had in common during the Kirby hearings was, "Do not increase our taxes." It is hard to promise this, or even aim at this objective, if financial data are not available.

We demand that if regional reform becomes a reality, safeguards be put in place to ensure that all parties walk in on equal ground. Outstanding debts should be cleared before any mergers take place. This is good business and fair to all taxpayers. This should be a condition of a regional reform bill, and if such conditions are not met, then the reforms should not take place. To truly hear from the people on an issue as controversial and as emotional as this one, we recommend that a plebiscite be carried out during the 1994 municipal elections. Let the public decide their fate.

In addition to my statements, I am representing the concerns of the Queenswood Heights Community Association, who were unable to send a representative due to the short time frames. I have with me a letter of proxy giving me authorization to read their comments. If you

permit me, I'll read it.

"Dear Ms Millan,

"The Queenswood Heights Community Association represents approximately 4,500 households in the urban community of Orleans in the township of Cumberland.

"Unfortunately, due to the short notice, the association is unable to send a representative to the public hearings on Bill 143, formerly Bill 77. We ask that you speak on our behalf and convey to the provincial government our unequivocal opposition to these elements of Bill 143 that were formerly in Bill 77.

"I have attached for your use excerpts from the Queenswood Heights newsletter. While I have been the writer, I can assure you that these articles reflect the opinion of the executive of the association."

Instead of reading all of them, I've just selected some that I will read to you. Either that, or we'll be here all night.

"Across the region, we currently elect 84 officials: 11 mayors, 72 councillors and one regional chair. Mayors of the 11 municipalities plus 21 councillors sit on a regional council. The recommendation is to reduce the number of municipal councillors and have 18 directly elected regional councillors. Cumberland's councillors, for example, would then be reduced to four from six.

"Although the total number of elected officials across the region would remain at 84, each regional councillor would hire a staff assistant. This means that in addition to the increased salary paid to a regional councillor, an additional 18 staff members would be added to the public payroll. Furthermore, if responsibilities do not shift to the region, the reduced number of councillors at the local end, most of whom hold full-time jobs, will have to assume greater responsibility, and they in turn will begin demanding support staff. Direct election of municipal councillors will be expensive.

"Direct election of regional councillors could result in no real representation for Cumberland in regional government. The ward boundaries that have been proposed will have the effect of giving the city of Ottawa control over 11 of the 18 seats. In other words, 47% of the regional population will control 61% of regional wards.

"Queenswood Heights will be combined with Blackburn hamlet and Chapel Hill to form regional ward 2, reducing the possibility of Queenswood Heights representation on council. Rural Cumberland is absorbed into the entire eastern rural portion of the region, that is, east of the Rideau River. Cumberland's best chance to elect a regional councillor would be from Fallingbrook or the Villages, which has been combined with Covenant Glen. Provincial proposals also deny giving mayors a seat on regional government. If this is adopted, then Cumberland's influence on regional council will be further reduced.

"Today, Queenswood Heights residents can easily discuss regional concerns with our mayor, who is also a representative in the region. If we do not feel he is representing Cumberland and the Heights, well, he can be replaced at election time. Under the province's proposed system of regional reform, a regional ward 2 councillor



can ignore the Heights in favour of the 70% of the votes that will come from Gloucester.

"Public opinion polls taken by the Kirby commission favoured status quo. As a second choice, the public said, 'We don't want one-tier government, but if that's what you're going to do, then do it all at once and get it over with.' The one thing that over 85% of the public absolutely did not want was a gradual phase-in of one-tier government. So what has the province decided to do? Adopt a halfway measure and do what will cost the most, create the most confusion and provide the least benefit.

"After the next election, some responsibilities will shift from municipal level to regional level. As the region uses this to justify tax increases, will there be a corresponding tax decrease at the municipal level? Perhaps I am being cynical, but somehow I doubt it.

1740

"The recommendations in the Kirby report fail by the very criteria that the commission set for itself. They will be more costly for no proven benefits.

"The recommendations are also in conflict with the stated values and goals of the communities. The commission's own public opinion poll shows this to be true. While the commission's report makes little mention of the public meetings that were held, the opposition to change that was voiced by the public was extremely strong.

"The recommendations would handicap rather than enhance our ability to cope with the future. They drain taxes, thus reducing business's ability to invest. Big government does not have small government's ability to respond quickly to its stakeholders, nor changing conditions. The phasing of changes over a five- to eight-year period would paralyse our local governments at a time when Canada is undergoing major structural economic changes. Ottawa-Carleton shares in that change while also facing federal government downsizing and decentralizations. The people's interest is best served by local government stability."

In closing, I would like to state there has been so much undue pressure from the minister to implement this bill quickly that I would not be surprised if authors of past regional studies suddenly changed their minds and assisted Minister Philip in legitimizing his bill. I thank you for your time.

**Mr Daigeler:** Thank you very much for appearing before the committee on, as you know, very short notice and within an extremely tight time frame. I do think, nevertheless, that it is useful to hold these hearings and to hear from you, because I honestly believe, after having heard the minister in the House, that he was not really aware of how strongly people feel in this area, in particular those who are not part of the city of Ottawa, about this matter.

If anything, I think these hearings are showing the sentiments of attachment, of emotional attachment, frankly, that are there. I think that's what's so unfortunate, that this particular project is riding roughshod over this, because I do think it could have been done differently. There was ample time shortly after the last municipal

election to bring in proposals, rather than waiting till the last minute and then blaming the opposition for it. I really think it's unfortunate that really what we're seeing, as we've seen today, is one community being pitted against the others.

I'm just wondering how you see the future cooperation between the various municipalities, which I think up to now has been good in this region, is going to be affected by this bill.

**Ms Millan:** I think what you're finding, because that's exactly it, Mr Daigeler, is that the communities are being pitted against one another. There are a lot of conversations in offices—in my office, for example, because we have a lot of people from the Ottawa area, from the rural areas and from Nepean—and the problem is that there's not enough information out there to make a factual, non-emotional decision on this.

Nowadays, everybody is so used to change, because the governments are doing it, businesses are doing it, but everything is based on financials. I think this is the concern that we all have, that these changes are being implemented and there have not been the financial data supplied to us. The only financial study I have ever seen is the Price Waterhouse one, and that was based upon putting in one-tier government right up front.

Nothing has been done, and I think the cooperation would come, because we all work together anyway. We all live in the region, and I use a lot of the downtown facilities myself. But I think if we looked at the financial implications, then everybody could make a decision.

**Ms O'Neill:** Kim, you likely know, as I know, that this bill's going to go through.

**Ms Millan:** Yes.

**Ms O'Neill:** What are the amendments that you would think would be the most helpful?

**Ms Millan:** Actually, before this bill goes through, I do hope that this government would ask the taxpayers in this region to vote on it before it ever went through.

But for the amendments, number one, I would really want to see the mayors back on council. That would allow a linkage into the regional government that, if you took it off, we would not have.

Right now in Nepean we actually elect a regional council. They sit on the city council as well as the regional council. So they are aware of things that are going on at the city as well as at the region. I think this linkage is very important.

Nowadays we're talking about the information highway and bringing communications into everybody's home. By cutting off this link between regional and the mayor, you're cutting off communication, and that's not something that we could live with.

**Mr David Johnson:** I wanted to follow up on that point. There was a deputation earlier this afternoon that I thought put it quite well.

The gentleman indicated that people come to the mayor for all sorts of problems, and now being on a regional council what happens to be a regional issue, that at least they got some responsibility and accountability.



But if the mayors are off, the people will still come with the same problems. They won't be on the regional council but they will still be accountable, in a sense, without having the authority. So that's going to be a difficult situation.

I'd like to thank you and the Barrhaven Community Association for an excellent presentation. The comment, again on the taxes, "Do not increase our taxes," is a very prominent theme throughout this whole hearing, and I hope that concept is sinking in to the government.

But maybe in terms of my question, I'd like to shift to your proposal of a plebiscite. This is one that's been raised by other people. Would you see the plebiscite as simply being for and against Bill 143, or do you see some other way to approach a plebiscite to draw out of people what they're looking for in terms of their local government?

**Ms Millan:** I'll answer as a personal response rather than talking for anybody at this point other than myself. Judging by the way the Constitution referendum was done, it was a for-and-against type of situation. That caused a lot of people a dilemma, because there are areas in the bill—change is important and in order to grow you have to have change. If you could even break it down into a few areas, the people could actually vote on the few areas, rather than saying yes or no. I think it would be better as a plebiscite to break it down into a few key areas. That's from a personal perspective.

**Mr David Johnson:** I know you haven't had a great deal of opportunity to think of what all those areas might be, because probably in your mind you think that the likelihood of having such a plebiscite is a bit remote, given some of the previous comments. What areas do you think people are most concerned about—obviously taxes?

**Ms Millan:** That's right.

**Mr David Johnson:** They don't want their government costs to increase. They want the services to be delivered in a most efficient manner by the appropriate level and taxes not to increase. What else would they be concerned about?

**Ms Millan:** I think that if you want your mayor to sit on regional council would be one issue. The issue of regional police should be another. These are controversial and emotional issues that have to be addressed. And as for taxes, I think the third one would be if people wanted the move towards a one-tier government. The problem is that you would have to make sure that the information and the data were out there in the public so that they could make a knowledgeable decision when they put their X in the box for yes or no.

**Mr David Johnson:** Good. Thank you.

**Mr White:** Thank you, Ms Millan. I'm very impressed with the work that you've done. We seem to have a number of presentations from the Citizens for Good Government, and you're finally the chair.

**Ms Millan:** And I apologize. I understand during legislation through all of your meetings that you didn't know who to respond to and I did forget to type in my phone number and address at the bottom of it, so I do apologize to you all now.

**Mr White:** I very much appreciate that. Despite the shortness of the notice, obviously, your group got on board several times.

We've heard from the former mayor of East York—and I certainly believe that most of believe in our hearts or have that feeling that the mayors are closer to us. The local government's closer to us. We are able to access them better. Frankly, that's how it goes. People feel closer to their provincial members than their federal members etc.

I'm wondering with this issue, where there have been a lot of comments, such as you've made about the cost of regional councillors and this \$2.9 million that's been set aside by the present regional government, not the one that's foreseen in legislation—

**Ms Millan:** That's correct.

**Mr White:** —by that money being set aside, your mayor you feel to be more accountable to you. When that vote occurred, when you heard about it, did you ask your mayor how he voted?

**Ms Millan:** Yes, I did, actually. I think if you look in my Citizens for Good Government proposal that was submitted a few weeks back you noticed that the \$2.9 million was identified there as an outstanding cost.

**Mr White:** Yes, and that's what I'm curious about. So you felt you were able to approach your mayor to say, "You're accountable for how you voted on that issue"?

**Ms Millan:** Absolutely.

**Mr White:** Do you feel you wouldn't be able to do that with a regional councillor?

**Ms Millan:** I would like to know where the regional chair is right now and why he was not able to get on here to actually stand up and identify what his concerns are, or whether he is either for or against this. That's how comfortable I feel about approaching him.

**Mr White:** I believe he's been here for the better part of the day. I don't know if he's here now.

**Ms Millan:** Has he spoken?

**Mr White:** No, he hasn't, but—

**Ms Millan:** That's my answer. That's how comfortable I feel about approaching him.

**The Chair:** Thank you very much, Kim. I'd like to also thank the Barrhaven Community Association and you, personally, for so effectively communicating not only your own views but those of the community association. Thank you very much.

1750

MERLE NICHOLDS  
ALLAN WHITTEN  
JOHN RICK  
JOHN REITER

**The Chair:** The next scheduled witness is Merle Nichols, the mayor of the city of Kanata.

**Mrs O'Neill:** You got it right.

**The Chair:** Right two times in a row. Good afternoon, your worship, and welcome. If you could identify the people who are presenting with you, it would be helpful.

**Ms Merle Nicholds:** I would be pleased to, and I appreciate the opportunity to be here this afternoon. I've been asked by my council to come here to present the city of Kanata's position to this hearing. It's certainly not my choice that the politicians take the place of members of the public who would like to speak, and it's very distressing the number of people in Ottawa-Carleton who did want to come here to speak.

I'm using my prerogative to have join me today those who did want to speak and couldn't get in. They're with me today. These are representatives of our business community in Kanata. Allan Whitten is the president of the Kanata Chamber of Commerce. John Rick was a former president of the chamber and is now a committee member of the chamber of commerce, and he's followed this issue. John Reiter is one of our local business people in Kanata. All three of these individuals have closely followed this issue.

As I said, I don't want politicians to take up the air time—I think it's for the public to speak—but I have been asked to bring the position of the city of Kanata to you. I have prepared copies of that position for your perusal. I'm going to speak as briefly as I can.

I would like to first of all say, though, that this whole issue of regional reform has been the topic of lengthy debate and consultation in my community, in the city of Kanata. Throughout the Kirby hearings and study, there was a lot of participation by Kanata residents and Kanata councillors. We even formed a Kirby task force, a group of citizens in our community, which had broad representation throughout the community, to study and analyse the Kirby report very carefully.

They made their recommendations to Kanata council. They consulted with the public and it was at a public meeting that we received the recommendations. The city of Kanata council endorsed most of those recommendations and submitted them. There's been a lot of discussion about Bill 143 as well, and recently Kanata council took a position on that. There's been a lot of involvement on the part of our community.

With respect to the position of the city of Kanata, I'm going to focus primarily on the key issues, the key concerns and the key amendments.

First of all is the one regarding the composition of regional council. The city of Kanata has not changed the position it took to the Kirby report, which is that we support 18 directly elected regional councillors, the city supports 10 mayors on regional council, all mayors except that of Rockcliffe Park, and a directly elected regional chair. This was a position supported by the residents as well.

Local council: We support the reduction of our council to four councillors plus the mayor. Currently we have six plus the mayor. I want to point out that this is not a position our residents supported. They wanted to have the status quo remain, but council took a counterposition. That was one area where we differed from our residents.

Local wards: This is one we do have some concerns about. Kanata council put forward a resolution that we support the local ward boundaries, as recommended in

Katherine Graham's report. We do not support the local boundaries as proposed in Bill 143, and I've given you some reasons for this.

If the purpose of this bill is really focused on regional reform and the creation of regional wards for the newly elected regional councillors, why is the government so insistent on telling the local municipality how local wards should be drawn? The bill has really taken away the right of the local municipality to determine its own local boundaries as it judges to be in the best interests of its constituents.

Bill 143 is imposing local ward boundaries on Kanata that the city of Kanata is opposed to. This bill proposes to create one large ward encompassing the entire north half of the city. The city of Kanata is divided in half by the Queensway, by Highway 417, and under this bill there is a proposal that everything north of the Queensway is one ward. This massive ward is comprised of three very diverse communities of interest. In this ward will be the original community of Beaverbrook, two very large, rapidly expanding new communities, and on top of that a large rural community as well. So you've got a new community, a rural community and the original. Right now these communities make up three wards.

In contrast, the remaining three new wards as proposed by the bill are those that currently exist today. These three wards make up the southern half of the city—three wards, three communities of interest. Two of these wards are older neighbourhoods where growth has virtually come to a halt. There is some potential but very little. The third ward is one of our most rapidly growing communities in the city of Kanata.

The local wards proposed by Bill 143 create a real imbalance with respect to both rapid population growth in the new areas and the unwieldy size of the northern ward.

The other point we really are concerned about with regard to this bill is in the area of economic development. The city of Kanata does not support the region having exclusive authority to purchase and develop commercial and industrial lands. The city's position is that the bill should be amended to permit local municipalities to continue to purchase and develop commercial and industrial lands. The city of Kanata supports, with qualification, that the regional municipality of Ottawa-Carleton be given primary responsibility for the development and implementation of a comprehensive economic strategy for the region. In this context, what we mean by "primary responsibility" is leadership and coordination, not replacing local activity and initiative.

I understand that earlier today you had before you the chairman of our police services board presenting its position. I added this because I wasn't sure whether that position would be included in the briefing. But it's very important that you understand that Kanata is in a unique position, like Rockcliffe Park, in that the bill is silent on how it deals with municipalities where we are currently paying for OPP police servicing. The bill is silent on that and does create a great concern for us about that. We're also very concerned about the cost impact on the residents of the city of Kanata.



I also have attached some highlighted sections of the bill and the concerns as they relate to our policing service in Kanata. There are two I would like to highlight, one in which the bill refers to dealing with assets and liabilities of police services boards. This certainly leaves Kanata vulnerable, because currently we have no liabilities. The other one, as I've just mentioned, is that the bill does not address municipalities where we're currently paying for OPP services.

I would like to close very briefly. I've had a lot of air time on this issue, as most of you know. I've submitted a lot of material to the minister. I've worked with the other 10 mayors. I won't repeat all the things we have said. What I'd like to say is that what's being proposed here is going to have a very significant impact on local government in this region. Local government is the backbone of this province, and what's being proposed here is to break that backbone. You're taking what's working and breaking it. There is discontent with local government, discontent with provincial and federal government. Instead of looking at what's working and trying to fix what isn't working, what's being proposed here is to destroy what is working, and that's the relationship between the lower and the upper tier, the local government that's in operation here.

I will end on a personal note, and perhaps it's a cynical note. I have been in politics for just two and a half years now. I went into this with all high hopes that within the existing system a person could function and deliver good government. By proposing to change this system to try and create better government, what I'm seeing in the last few months is very concerning to me. What I'm seeing is a lot of individuals who are very eagerly rushing forward to seek a position on regional council, and what I'm seeing is a lot of people who are acting with a great deal of self-interest.

**1800**

I really want to end with this warning to you. You can have the most beautiful and wonderful system in place, but what it really comes down to is the individuals who are involved and what their intentions are and what it is they're trying to do. It's really foolish to think it's the system that's going to solve things. It's the people who are involved in that system.

I don't want to repeat all the things I've said. What I'd like to do is leave some time for my colleagues, who would like to speak to you on behalf of the business community.

**Mr Allan Whitten:** I'll just start off by saying that I received a copy of a letter from the chairman of the Ottawa-Carleton Board of Trade representing that their support of the bill was representative of business in Ottawa-Carleton, and I'd like to say that that's not the case. All the other chambers of commerce in the region are against the bill or major elements of the bill. I wrote to Mr Philip and suggested that to him and I think he's got representation from the other chambers as well. The business community in Ottawa is in support of it, but that represents less than half of the population, and the rest of the business organizations are quite solidly against it. I wanted to clarify that.

As a member of the Kirby commission task force, I was fairly satisfied with the compromise that was come up with on local, municipal and regional government, but there are elements of the proposal that are quite unsatisfactory. There's a theory that larger is better, and it's not necessarily better. The regional government can deliver some services efficiently, but as they get more and more services and responsibilities, I think the efficiency decreases. That's a worry here, and the net result under the current proposal would be that costs would go up and not down, as was one of the major objectives of the whole exercise, which has gone on far too long.

There's also an assumption that a large regional government managing Ottawa-Carleton could bring services to the area on a homogeneous basis, and I think it's fair to say that there are services that should differ. Ottawa-Carleton is very diverse and there are a lot of services that may be required by some areas and not by others. The Kirby commission proposals recognized that and I don't think the current proposals do recognize that.

Much has been made of input and the relationship between the governed and the government, and people in Ottawa-Carleton and certainly Kanata value the access they have to their politicians. Quite definitely that's going to be lost, the accountability aspect. Having the mayor on council is very, very important. You've heard that before, but I have to echo that in saying that the mayor can take the views from his or her constituents but also from other council members and the local government as a whole. It's very important that that conduit or that communication be preserved between the people, the local government to the region.

The current proposals are not satisfactory because there won't be that direct communication, and 40,000 people talking to one regional councillor is just too much. You need that direct relationship between the local council and the regional council.

Just to touch briefly on the police aspect, I don't think business is very satisfied with the proposals for regionalizing police. There has been a lot of vandalism and break-ins in Kanata recently, and we'd be concerned that service and coverage would be reduced or lessened rather than improved. Our policing situation is relatively satisfactory. It needs to be improved, but I think there's a concern that it would be lessened.

Economic development in Ottawa-Carleton: To centralize it has some positive elements, but businesses want choices: different locations, different prices, different uses. An AAA business park in downtown Ottawa doesn't necessarily meet the needs of some of the rural businesses that need cheap space and cheap land.

I think choices in economic development and economic development stimuli are very important. One large regional government is unlikely to develop the full range of choices that we now see in the region and in Kanata and some of the areas in the western part of the region. I think it's very important to leave an element of economic development with the local municipality.

Those are all my comments, but I believe my colleagues will have some additional comments.



**Mr John Rick:** My name is John Rick. As the immediate past president of the chamber of commerce, this is an issue that I've grappled with for about two years. I'm pleased to have the opportunity to address you this afternoon with respect to the chamber of commerce's concerns about this bill.

Just so that you're aware, the Kanata Chamber of Commerce is made up of approximately 250 members. There are about 460 or 480 registered businesses in Kanata, and our memberships are privately sponsored and are privately marketed, unlike our colleagues at regional headquarters. The Ottawa-Carleton Economic Development Corp uses a part of its budget to solicit memberships. I believe our organization truly represents those businesses within the city of Kanata. We're proud of the percentage of businesses in Kanata that are members of our organization.

In our view, the proposed legislation is not good for business, and it's not good for business because, first of all, it removes mayors from regional council. I think the fact that we're here this afternoon with Mayor Nicholds is indicative of the fact that we have a relationship with our local council that's the envy of the region. If there's a concern in the city of Kanata with respect to economic development, we can call our mayor and get hold of her. She knows what the issue is and, if it's a particular project, where the project is located, and we can get some response. That's not the case right now with regional government.

Secondly, the proposed legislation provides for election of councillors who would have, the possibility is, no ties whatsoever with the local municipality.

Thirdly, it's possible that the proposed legislation could eliminate the exchange of information from the cities to the region, which we feel would be very detrimental to economic development.

Fourthly, the proposed legislation could create regional wards which don't reflect representation by population and will result in a greater disparity as suburban populations grow.

In the event that you feel that we're here simply to criticize the legislation and say, "It's all bad and we have no other solutions," let me remind you that for the past two and a half or three years the Kanata Chamber of Commerce has been pushing a model for economic development in Ottawa-Carleton which was, by the way, placed before the previous public hearings on regional reform.

That model was one whereby the Ottawa-Carleton Economic Development Corp would be responsible for bringing businesses into the region, marketing the region, if you will, but its membership base would be made up of the local chambers of commerce. As a result, the portion of OCEDCo's budget which is used to market memberships to local businesses could be cut and money could be saved. OCEDCo, as a result of tapping into the chamber's network of memberships, would be able to actually expand its membership base while saving money.

Of course, there are things that the local chambers can't do that OCEDCo can do. OCEDCo can market this

region outside of Canada and within other provinces; the chambers can't do that. The problem is that there are things that OCEDCo can't do that we can do better. We're in touch with our local members; we know what the local issues are. As a result, we feel that a partnership could be created that will be fiscally responsible and also very beneficial for economic development within the region.

We've been pushing that model for about three years. It was put forward at the Kirby commission and was totally ignored in Mr Kirby's final report. In fact I think his comment in the report was that local business organizations, and particularly the chamber of commerce, were parochial and had absolutely no alternative solutions to offer. Well, we've offered one and nobody has listened.

What we're saying to you is that if we can come up with creative solutions like this for economic development in our region, surely to goodness local politicians can take the existing system and rework it without totally destroying it and make it work better. We hope that what you'll do is instead of destroying the whole system, you'll take the existing system and rework it and remould it. But don't destroy it; make it work better for us and in a fiscally responsible way.

I'd like to defer to my colleague Mr Reiter.

1810

**Mr John Reiter:** My name is John Reiter. I'm a Kanata businessman and I was also recently a member of the Kanata Business Development Task Force.

Briefly, I would just like to add my opposition to the regional reform as it is now being proposed. The current proposal does not reflect the concerns, feelings and opinions of the majority of those who attended the Kirby commission public meetings last year, where I attended. I believe that regional reform should mean less government.

By implementing the current proposal, you will be enlarging an already unresponsive and unwieldy level of government. At the same time, it will weaken local city government. I feel that local municipalities are the most efficient and the most democratic level of government. In Kanata we're proud of our city government and we demand good government.

I also believe that by removing the mayors from regional council, you are removing direct involvement of local councillors in regional affairs and I oppose this very strongly.

I guess I challenge you in asking you—nobody has really stated what is wrong with the current regional government as it stands—why do we have to reform it? Personally, I feel it's working quite adequately, at least for the last three years, and I don't really see why it has to be reformed.

**Mr David Johnson:** I'd like to thank you, your worship, and the business people for an excellent deputation. It brings back a few memories. We haven't talked about the business community and economic development really quite enough, I think, yet through this process. I can recall local businessmen coming to me when I was mayor with problems involving regional roads or the

regional transit system or trying to deal with the regional planning department to give approval to local projects, but they had to comment on it, that sort of thing. There were all sorts of problems that I, as mayor, brought to the regional council to speed up, and I think that's what your colleagues are saying.

I just wondered if you would comment a little more fully in terms of the right that's going to be lost by the city of Kanata to be involved in the purchase and development of commercial and industrial lands. We know how important economic development is to local municipalities. Have you been able to do any forecast with regard to what the impact of that may be on the city in the future?

**Ms Nicholds:** Actually, that's something I would certainly wonder if our business people would respond to as well. But I guess the key concern is in Kanata, with this current right that we have now, we have created one of the most successful business parks in the entire region and it's literally the engine for high technology in this region. It wouldn't be there if the city of Kanata had not started that business park, and the same with our south business park. Now we're dealing with the heart of our city, trying to develop a town centre, a downtown. If we have to leave it just to chance, will it really happen?

That's the fear I have, that Kanata may never be that sustainable city that I strongly want it to be if its town centre and its viable business central core never gets a chance to start and if the city has no opportunity to kickstart that. So, for me, that could be the future of our city. It may just be another mindless suburb at the edge of Ottawa-Carleton if it never gets to have that heart and that central core.

**Hon Ms Gigantes:** If I could, to Mr Reiter first, I'm a bit puzzled because, and I've heard this before, at one and the same time you say to members of the committee, "Regional government's working fine," and at the other moment you say to us, "We have an unresponsive regional government." I just wonder whether perhaps you haven't analysed why you think it's unresponsive and perhaps asked yourself the question of whether the structure may have something to do with creating that unresponsiveness.

**Mr Reiter:** Perhaps we're both right. It is unresponsive, but by making it larger it's going to become more unresponsive, so I say just leave it as it is until we can figure out a better way of reforming it. I think that the municipal government—

**Hon Ms Gigantes:** How is it larger?

**Mr Reiter:** By creating a larger bureaucracy. You'll have directly elected councillors, and each would have his own office.

**Hon Ms Gigantes:** We don't usually call directly elected people a bureaucracy.

**Mr Reiter:** No, but you will be creating the infrastructure that comes with having directly elected councillors. The thrust will be taking the responsibilities away

from the municipality, such as economic development and policing. I think that's making it a larger—

**Hon Ms Gigantes:** That leads me into my—oh.

**The Chair:** Thank you. Ms O'Neill.

**Mrs O'Neill:** I know your sincerity and I know the time you've spent on this, and I want to acknowledge that you met the challenge of rep by pop and you were the leader in that. Your personal comments are important and should have their due place. I'm glad you made them.

You know and I know that we're up against a very difficult situation here, and at this very last moment I'd like to ask you what you think we can do to fix this bill, because it's likely going through. What are the amendments we should be fighting for?

**Ms Nicholds:** I certainly feel very strongly, as you know, about having mayors on regional council. I think that is one amendment that must be made to this bill.

I think that what's being proposed, Ottawa-Carleton will be the guinea pig. It's only been tried once before in Canada, where they tried to remove the lower-tier reps from upper-tier council, and it was a disaster; it met disastrous ends. That definitely is going to create a totally unworkable situation, so that one certainly.

I truly also am concerned about the impact of regional policing. That is a concern that's shared around this region and it's one that's on the top of the list in my community, the impact of regional policing and what that will do. Primarily the concern is cost and service and control over our policing in the local community.

Those are two that are right on the top of the list.

**Mrs O'Neill:** I'm sorry your own member was not here today to hear your comments.

**Mr Whitten:** Could I add one point in response to Mr Johnson's question about the effect of economic development and the loss of planning? I think there's so much land out there that you have to prioritize what land you develop and what land you encourage.

I would be afraid that the centralization of regional government would concentrate focus and priorities on inner city and priorities and projects inside the greenbelt and would ignore many of the priorities, many of the business parks and economic development issues outside the greenbelt in the outer core.

Someone said that the city of Ottawa's going to control 11 of the 18 wards, and that's a concern. I think right now they're in control of regional council, yet they have less than half the population.

That would be one response, that priorities have to be set and local municipalities can set their own priorities. I believe that some of the priorities would come from the central area that would ignore the outlying areas.

**The Chair:** Thank you very much, Mayor Nicholds, and your co-presenters for bringing your views to this committee this afternoon.

We are adjourned until 9 am tomorrow.

The committee adjourned at 1819.









## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**\*Chair / Président:** Huget, Bob (Sarnia ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

Fawcett, Joan M. (Northumberland L)

**\*Jordan, Leo (Lanark-Renfrew PC)**

Klopp, Paul (Huron ND)

Murdock, Sharon (Sudbury ND)

Offer, Steven (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

Waters, Daniel (Muskoka-Georgian Bay ND)

**\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)**

**\*Wood, Len (Cochrane North/-Nord ND)**

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Chiarelli, Robert (Ottawa West/-Ouest L) for Mrs Fawcett

Daigeler, Hans (Nepean L) for Mr Conway

Gigantes, Evelyn, (Ottawa Centre ND) for Mr Waters

Grandmaître, Bernard (Ottawa East/-Est L) for Mrs Fawcett

Hansen, Ron (Lincoln ND) for Mr Klopp

Johnson, David (Don Mills PC) for Mr Turnbull

O'Neill, Yvonne (Ottawa-Rideau L) for Mr Offer

White, Drummond (Durham Centre ND) for Ms Murdock

### **Also taking part / Autres participants et participantes:**

Chiarelli, Robert (Ottawa West/-Ouest L)

Grandmaître, Bernard (Ottawa East/-Est L)

Shtern, David, manager, local government policy branch, Ministry of Municipal Affairs

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** McNaught, Andrew, research officer, Legislative Research Service



## CONTENTS

Friday 15 April 1994

<b>Regional Municipality of Ottawa-Carleton and French-language School Boards Statute Law Amendment Act, 1994, Bill 143, <i>Mr Philip</i> / <i>Loi de 1994 modifiant des lois concernant la municipalité régionale d'Ottawa-Carleton et les conseils scolaires de langue française</i>, projet de loi 143, <i>M. Philip</i></b>	R-691
Jacquelin Holzman	R-691
Nepean Police Services Board	R-694
Jean Peart, chair	
Dan McGuire, past board member	
Brian Granger, Nepean resident	
Albert Bouwers	R-697
The Glens Community Association	R-700
Pauline Meyer, president	
Nepean Chamber of Commerce	R-703
John McCalla, president	
Citizens for Fair Taxes	R-705
Frank Spink, chair	
Claudette Cain; Cynthia Ignacz; Lou Kirby	R-708
Alex Cullen	R-712
Gloucester Chamber of Commerce	R-716
Jim Anderson, executive	
Jacques de Courville Nicol, first vice-president	
Citizens for Fair Taxes	R-720
Keith Dowd, representative	
Ottawa-Carleton Board of Trade	R-722
Willy Bagnell, president	
Len Potechin, past chairman	
Bohdan Yarymowich	R-725
Phil Downey	R-728
Alex Munter	R-730
Phil Benson	R-732
John LeMaistre	R-735
Ben Franklin	R-739
Citizens for Good Government	R-742
Tom O'Neill, representative	
Vern Rampton	R-745
Federation of Ottawa-Carleton Citizens' Associations	R-747
Dr Allan Gregory, representative	
Carlingwood Community Association	R-750
Peter Cameron, vice-president	
Kim Millan	R-752
Merle Nicholds; Allan Whitten; John Rick; John Reiter	R-755



## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

## Official Report of Debates (Hansard)

Saturday 16 April 1994

## Journal des débats (Hansard)

Samedi 16 avril 1994

### Standing committee on resources development

Regional Municipality of Ottawa-Carleton  
and French-Language School Boards  
Statute Law Amendment Act, 1994

### Comité permanent du développement des ressources

Loi de 1994 modifiant des lois  
concernant la municipalité régionale  
d'Ottawa-Carleton et les conseils  
scolaires de langue française

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal de débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.





## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Saturday 16 April 1994

Samedi 16 avril 1994

The committee met at 0904 in the Radisson Hotel, Ottawa.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
AND FRENCH-LANGUAGE SCHOOL BOARDS  
STATUTE LAW AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT DES LOIS  
CONCERNANT LA MUNICIPALITÉ RÉGIONALE  
D'OTTAWA-CARLETON ET LES CONSEILS SCOLAIRES  
DE LANGUE FRANÇAISE

Consideration of Bill 143, An Act to amend certain Acts related to The Regional Municipality of Ottawa-Carleton and to amend the Education Act in respect of French-Language School Boards / Projet de loi 143, Loi modifiant certaines lois relatives à la municipalité régionale d'Ottawa-Carleton et la Loi sur l'éducation en ce qui a trait aux conseils scolaires de langue française.

DALE HARLEY

**The Chair (Mr Bob Huget):** The first witness this morning is D.R. Harley Consultants Ltd. Good morning and welcome. You have been allocated 20 minutes for your presentation. I know the committee would appreciate a portion of that for questions and answers, so proceed.

**Mr Dale Harley:** Thank you very much for the opportunity to come and speak to you and express my concerns with respect to Bill 143. As a business owner in Ottawa, which makes me a taxpayer, as well as a resident of the township of Osgoode, which makes me a taxpayer out there, I have a number of concerns with respect to this bill. While I have many concerns, I only have a few minutes to speak, so I'm going to limit my comments to three, those being increased taxes, decreased service, and finally, leaving mayors off regional council.

With respect to increased taxes, I've yet to be convinced, and see any evidence to convince me, that reforming municipal government is going to result in lower taxes. However, what's fairly clear is that bigger is not necessarily better when it comes to operating government, and there are a number of facts I have to support this.

Let's first of all look at bigger bureaucracy. The bigger the bureaucracy, the bigger the average salary, and I'll cite three examples: The city of Ottawa with a staff of 350 has an average salary of close to \$70,000; for the regional municipality of Ottawa-Carleton with 316 employees, you're looking at \$65,000; on the other hand, in my own township, Osgoode township, there is a grand total of 13 employees but only \$34,000 average salary. What this seems to indicate is that bigger bureaucracies result in bigger expenses.

This regional reform is also intended to decrease the number of elected politicians in the region. While we

may end up with slightly fewer politicians, we're going to end up with significantly increased costs. An example here is that it's estimated it'll cost approximately \$2 million for the salaries and the other expenses associated with the 18 elected regional councillors. While those 18 elected regional councillors are replacing 32 part-time councillors, the salary cost associated with them was only \$683,000. So we're looking at approximately an additional \$1.5 million in politician expenses.

We're also seeing that while we're going to end up with fewer elected councillors in places like the city of Ottawa, we've already seen evidence of the lobbying taking place there for them to get increased salaries and more expenses for the fact that they're going to be representing additional people.

Increased debt with respect to servicing charges: The per capita debt for the city of Ottawa is approximately \$400 per resident. Out in the other municipalities we see that it's little or none. I'll go back to my own township of Osgoode again. We have a per capita debt of \$7. So bigger translates into bigger budgets, which translates into bigger debt in the servicing of that debt as well.

In fact, the study by Price Waterhouse concluded that moving to one-tier government would increase annual expenditures of municipal governments throughout the region by approximately \$25 million to \$77 million. In addition to that, there would be another \$12 million to \$29 million for initial startup costs and implementation costs as well. What that translates into is an average tax increase of 5.5% to 16.5%—totally unacceptable. What this evidence here seems to support is that bigger government can only result in bigger tax bills.

Decreased services, my second concern: As a business owner in Ottawa and as a resident out in a rural township it gives me the opportunity to witness firsthand the level of service provided to me by both of those organizations. Let me tell you, my experience has been that my township is much faster at responding to my inquiries, much less likely to make administrative mistakes and is also much more helpful in addressing my needs. Once again, we see that bigger is not better.

It would also appear that my fellow residents throughout the region would also agree with this. According to a study conducted for the Kirby commission by Coopers and Lybrand, it indicated that residents were much more satisfied with their local municipalities; 76% were satisfied as compared to only 57% being satisfied with regional government. Bigger government, decreased services.

Finally, leaving mayors off regional council: The fact

that mayors will not be represented on regional council really reduces the input that communities outside the greenbelt have with respect to regional issues. This really doesn't make a lot of sense when you consider that the fastest-growing parts of the region are those communities outside the greenbelt.

0910

We also see that Bill 143 does not reflect the public consultation that's gone on for a number of years, as well as all the related research that's taken place. A poll conducted by Factor Research back in September 1993 revealed that 79% of the respondents surveyed felt that local mayors should sit on regional council. None of the past studies that have gone on, Mayo, Bartlett, Graham, Kirby, recommended taking mayors off regional council. Yet what does Bill 143 propose? Taking them off.

Finally, all the mayors in the region with the exception of one—surprise—believe that mayors should remain on council. When you have that many elected officials representing that much of a population saying, "Leave us on regional council," they're speaking not on behalf of themselves but on behalf of their constituents, their taxpayers. They want them left on council.

There are a number of really good benefits in terms of leaving mayors on council. These include greater accountability, greater cooperation and greater fiscal responsibility.

In terms of accountability, nothing burns my butt more than to hear someone say, "Sorry, that's not my responsibility." You have to make one elected official accountable, and that's particularly true out in the rural areas where we can go if we have a concern and we're not going to have to the buck passed. Rural mayors, given the large geographic areas that they have to represent, need to be more involved, not less, in representing their residents' interests with respect to urban and regional issues as well.

Greater cooperation: We need greater cooperation between regional and municipal government, and mayors sitting on regional council ensure this cooperation since they're working together collectively for some common causes and objectives. What did we see in Winnipeg? The model in Winnipeg resulted in just a complete disaster when mayors were left off regional council.

Finally, greater fiscal responsibility: I think regional council would benefit greatly from the proven financial track records of the rural municipalities when it comes to controlling operating costs, deficits and tax increases.

I've spoken for the last three minutes expressing some concerns I have with Bill 143. Let me just take a couple of minutes to talk about some suggestions, ways to make Bill 143 better.

First of all, leave mayors on regional council. Regional council will benefit greatly from having regional mayors. You'll have greater accountability, you'll have greater cooperation and you'll have greater financial responsibility. In order to address the concern with respect to representation by population, it's very possible, and in fact has been proposed by the rural mayors as well, to institute some form of weighted voting system or some

form of pooling votes as well. Delay Bill 143 until the financial impact has really been determined. It is evident that there's not been a thorough examination of the financial impacts of Bill 143 on local taxpayers and the government has not yet convinced me it's going to give me better value for my tax dollar in Ottawa or my residential tax dollar back in Osgoode. I would encourage the government to carry out a proper study of the financial implications of this bill.

Go with the status quo for the November 1994 municipal elections. What's the rush? I think the regional governments have been around for 25 years. Another three years is not going to be a crisis. It's not going to hurt. What's the rush to have Bill 143 enacted anyway? Give people more time to understand the issues and give you, the government, more time to communicate the facts surrounding this bill.

Finally, hold a regional referendum. Let the citizens of the region vote on how they want their region to be run. Placing Bill 143 on the ballot on this fall's municipal elections will permit plenty of debate, plenty of discussion. People will understand the facts and then they will be able to decide themselves. It's we, the people, who have to live with the consequences. Let us make the decision, not Queen's Park.

In conclusion, I'd like to thank you again for the opportunity to present this brief. I'm sorry to hear that many of my fellow business owners and residents in the region were not afforded the same opportunity. Given the ramifications of the bill on the region, I would have expected the NDP government to have provided more time to hear from all of us who are concerned with respect to this bill, as well as those few who do support it.

I would also have appreciated, as I know others would, more effort on the part of the government to communicate about these hearings as well. Is it possible that the government's not really interested in hearing what we have to say here in eastern Ontario? Evidence to date would tend to support the conclusion that they are not.

**Mr Bernard Grandmaître (Ottawa East):** Thank you for your presentation. As you know, if this model of regional government is implemented—I shouldn't say "if" because it will be, let's be honest—do you think this is the end of local government in Ottawa-Carleton?

**Mr Harley:** It's certainly the first step towards the end. You're going to have a situation where rural or non city of Ottawa municipalities just are not going to have enough say. While they may have an elected regional council, the linkage there, cutting across boundaries, does not permit good cooperation and coordination.

As a result of that, you're going to have people take less and less interest in their municipal government. When people take less interest, they don't vote. When people don't vote, they say, "Why should I run?" What you're going to end up with is that the quality of politicians at the municipal level is going to drop dramatically. When you end up with poor politicians, you end up with poor-quality service. When you end up with poor-quality service, you give them the boot and then we go to a single tier. So yes, in answer to your question, it is the beginning of the end.



**Mr Grandmaître:** What you're saying is, yes, we did need some fine-tuning to regional government in Ottawa-Carleton, but this is going too far.

**Mr Harley:** Yes, I believe it's going too far.

**Mr Grandmaître:** My biggest concern is that this model will be repeated elsewhere throughout the province of Ontario. The Ministry of Municipal Affairs and the Minister of Municipal Affairs are supposed to promote the local decision-making process and this will certainly kill local government as far as I'm concerned.

**Mr Harley:** This is true.

**Mr Hans Daigeler (Nepean):** I have a quick question. You probably weren't here yesterday, but most of the representations from the city of Ottawa, and particularly the mayor of Ottawa, were very forceful, saying, "Get on with this and really what we ought to have is one-tier government." Why do you think the city of Ottawa takes that position and in such a forceful manner?

**Mr Harley:** I can't really speak on behalf of city of Ottawa politicians. That's their job, to make their own comments. Being a little cynical on things, I sometimes take a look at the debt of the city of Ottawa, I take a look at the condition of their infrastructure. I take a look at the condition of the bureaucracy. Quite honestly, they probably look with a bit of jealousy at the other municipalities in the region and say, "Hey, we want to have part of that as well and we want them to help us take care of the problems we have." That's a cynical view. I can't say whether that's true or not.

**Mr David Johnson (Don Mills):** I'd like to thank you, Mr Harley, for an excellent presentation. Just looking at the numbers you've quoted in terms of satisfaction of local municipalities and regional government, I can say that those numbers—and even a little higher for local municipalities—are about the same from where I come from in Ontario, and I suspect you'll find that kind of feeling right across Ontario. You'll also find that the provincial government and the federal government are even lower than the regional government on the satisfaction scale.

**Mr Harley:** I have intentionally left all references to provincial and federal governments out of this.

**Mr David Johnson:** But I think that again substantiates your "bigger is not always better" theory.

**Mr Harley:** Very much so.

**Mr David Johnson:** That's something I've been trying to convey as well. If you look at the salaries, there's no question that the bigger municipalities feel obligated to pay higher salaries.

Volunteerism is something you haven't mentioned, but my recollection from yesterday is that Osgoode has a volunteer fire department.

**Mr Harley:** That's true. An excellent one. I know. They've been to my house.

**Mr David Johnson:** For example, in the city of Ottawa, and not just Ottawa but large municipalities, they do not have volunteer firefighters. Indeed, in many cases in the negotiated contract it is forbidden to have any volunteer firefighters where there's unionized staff. We

may say that volunteers don't fit in with big government. That's very true. That's the way it works out, but something is lost there and I think when the citizens of Osgoode are prepared to work together to give that kind of service, that's something that should be encouraged.

I think we have ample evidence that governments can't afford to give all the services that all people want. It just can't raise enough tax revenue; it's impossible.

0920

**Mr Drummond White (Durham Centre):** There are a couple of things I wanted to pick up on, and I want to thank you for your presentation and for coming here today. One is the tax issue and the service issue that you brought out. The regional municipality of Ottawa-Carleton is unique. In fact, you folks have a real advantage that the rest of us in the province don't have—I don't have in the area I come from, in Durham region—and that is that for urban services you pay at a different mill rate than in a rural area such as you're in now. I don't believe there's any intent to change that. So basically, you wouldn't be paying for transit services—

**Mr Harley:** Mr White, I just want to point out that I'm here speaking as a city of Ottawa taxpayer, business owner. On the side, I happen to have decided to live outside of the city of Ottawa. I grew up in the city of Ottawa; I know it very well.

**Mr White:** What I'm trying to point out though, sir, is that you're paying taxes in two different locations so you're aware of the fact that there's two different mill rates then.

**Mr Harley:** That's correct.

**Mr White:** And that the mill rates that you're paying in Osgoode are lower than in the city of Ottawa.

**Mr Harley:** I believe so.

**Mr White:** So you're aware of the fact that the services that you're paying for in Ottawa, even with regionalization, are less than in Osgoode.

**Mr Harley:** Some of the services I receive in Ottawa are completely different from the services I receive out in Osgoode, hence the difference, yes.

**Mr White:** Right. And with the Price Waterhouse study, I believe there was an intent there to generalize services from Ottawa to Osgoode to Vanier to everywhere in the region, and you as a taxpayer in both those locations know that is not what has happened.

**Mr Harley:** I'm not quite sure what you're getting at.

**Mr White:** You know that you're paying a different mill rate in Ottawa than in Osgoode.

**Mr Harley:** That's correct.

**Mr White:** And the Price Waterhouse survey was based on—

**Mr Harley:** But different municipalities also pay different mill rates as well.

**Mr White:** I realize that, but at the regional level that's also happening.

**Mr Harley:** In the city of Ottawa I pay a higher mill rate. I receive a higher level of service as a result, of water and sewer and fire and police etc.



**The Vice-Chair (Mr Mike Cooper):** Thank you, Mr Harley, for taking the time this morning and giving us your presentation.

DIANE SPENCER  
MARIANNE WILKINSON

**Ms Diane Spencer:** My name is Diane Spencer. I am a resident of Kanata. I wish to thank the standing committee on resources development for allowing me to speak on Bill 143, RMOC reforms. I am speaking as a concerned citizen and I would like to address the importance of keeping mayors on regional council, and I would like to explain why.

When Mr Kirby was commissioned to do a study on regional reforms, I was a community association president in Kanata. I was very aware that residents wanted openness and public participation with no surprises. They want to be able to voice their opinions to their elected officials and, more importantly, they want to be heard.

I was impressed with Mr Kirby's many meetings across the region to discuss regional reforms and I was pleased to see so many people attend and be so vocal. The people believed that the government truly wanted their views, and they thought the government would listen to their concerns. Unfortunately, I feel many are discouraged with the results of Bill 143.

After I wrote to the Honourable Mr Philip, he wrote to me in February 1994 and stated that the purpose of this most recent study completed by Graeme Kirby was to obtain the views of the public on one-tier government, direct election and any other issues raised. After I wrote MPP Hans Daigeler, he kindly sent me a copy of a letter he received in May 1992 from the Honourable David Cooke, Minister of Municipal Affairs at that time. Mr Cooke stated that he would be appointing a consultation commissioner to review the outstanding issues with the public and with municipalities.

The key point here is that thousands of taxpayer dollars have been spent on another study asking for public opinion, and they have received valuable input, but in the end Mr Philip and the NDP government are not listening to the people, the region, the mayors or local municipal councils. It appears that they gave public participation only because they knew it was politically correct.

The reason I say this is because there is overwhelming support for keeping mayors on regional council.

Mr Kirby does not recommend that all mayors be removed from regional council. His recommendation number 11 proposed that besides the regional chair, there would be 18 councillors directly elected from regional wards and 10 local mayors would sit on regional council. Only the mayor from the village of Rockcliffe Park was proposed to be excluded.

Regional council and 10 of the 11 mayors and their municipal councils recommended that mayors remain on regional council. What better recommendation than from those who will be working together in a coordinated effort for a better regional council for the people?

In August 1993, the majority of the 700-plus-member Association of Municipalities of Ontario, AMO, sup-

ported a motion to keep mayors on regional council. This is representative of a great number of intelligent, experienced people who have grave concerns over a proposal to remove mayors.

If mayors were removed, Ottawa-Carleton would be the only region in Canada which would exclude mayors from regional council.

When mayors were removed from Metro Winnipeg council, it created a chaotic situation which we don't want to happen here.

The Kanata community associations' joint committee represents all seven community associations across Kanata. They unanimously voted to keep mayors on regional council. They have submitted this information to Mr Philip.

Residents want accountability and accessibility from their elected officials. When they have a problem, they contact their local mayor and/or councillors first, or they attend a convenient evening council meeting in their own municipality. Many residents are unfamiliar with regional council. Also, many residents cannot take off work to attend the region's daytime meetings downtown. Now many are uncomfortable knowing that their directly elected regional councillor will not sit on their local city council to hear their problems. If residents have a problem that must be addressed at regional council, then they want their well-informed mayor who is experienced, knowledgeable and more familiar with up-to-date local matters to represent them there. I believe by having representation at the region with both mayors and regional councillors, there will be better communication between the two and residents will then be assured that both the local and regional issues will be thoroughly examined. And, as a result, the people, the municipality and the region will benefit twofold.

I have heard much discussion on parochialism. It happens everywhere, even with community associations, and it will happen with regional councillors as they try to please residents in their ward. Residents want to protect the uniqueness of their community, and they want their mayor and councillors to ensure that their community grows in a positive way.

The public responded to Mr Kirby's recommendation as it was written in recommendation number 11 with mayors kept on regional council. I am sure, like myself, they had no idea recommendations could be changed arbitrarily by the NDP government after they gave input.

Mr Philip later advised the public that mayors will not sit on regional council. He states that the wide range in populations of the area municipalities makes it impossible to achieve representation by population if the mayors remain. I understand, however, that Mayor Nicholds has suggested it is possible to keep mayors on regional council and has offered some suggestions, one of which is the use of a weighted voting system based on population. Why isn't Mr Philip considering any of these suggestions?

The key point here is that if Mr Philip wanted mayors off regional council, he should have made that recommendation to the public initially, not after the public has

responded to an entirely different recommendation, which was recommendation number 11. There should be no final passing of any radically changed recommendations until the public can respond to any new proposals.

0930

Although the government's efforts to inform and obtain input from the people was impressive for Bill 77, I must say that there was a noticeable lack of communication between the government and the people after the region and each municipality submitted their reports. I would have liked to see how each municipality responded to Kirby's recommendations. I would have liked to know why Mr Philip did not listen to the majority who wanted mayors kept on regional council. And I certainly feel that a much earlier newspaper article should have been placed in newspapers asking for speakers for this public hearing. I am also disappointed in the NDP government's decision to limit debate on Bill 143, as I know there are many, many people who wanted to speak.

In a newspaper article on April 7, 1994, it stated that reduced public hearings were "necessary to get the contentious bill passed in time for next fall's municipal elections." On February 11, 1994, Mr Philip also stated that he would like to take this opportunity to reaffirm his commitment to having this legislation in place in time for the 1994 municipal elections.

I am sure I am not alone in saying I do not want a flawed bill rushed through just because an election is quickly approaching. Alarm bells should be ringing in the ears of the people.

To conclude, it is my hope that at the final voting hour, all voting members will listen to what the majority of the people, regional government, mayors and municipal councils want, and as a result they will:

- Vote to keep the mayors on regional council. Avoid making too many drastic changes at once. Let the people see how well mayors and directly elected regional councillors can work together.

- Vote only for recommendations that will not increase taxes. These are difficult economic times for many. Now is not the time to implement any costly changes; and

- Vote only for the recommendations that the majority want passed.

Bill 143 is not totally lost. I believe that making changes slowly, wisely and carefully will be the best way to improve regional government. The people have given input in good faith. Now it is time for the government to listen to those who vote for them.

**Ms Marianne Wilkinson:** My name is Marianne Wilkinson. I am a councillor in the city of Kanata. I have had 17 years on local government, nine of them on regional council, so I am considered sometimes to be the historian around here.

I spent yesterday here listening to the debate and Diane offered me a chance to put forward an idea that came as a result of hearing what was said yesterday. What really concerned me was the fact that time after time it was stated by people that this bill will pass, that really this is just a charade, that you're listening but in fact the

decision's already made. And that, to my mind, is extremely difficult because there were many different viewpoints being made by different people from across the region yesterday.

So last night I sat down to try to think of a way out of this impasse and I have a suggestion for you. The one thing that is time-driven, if you have anything that's time-driven, is doing the legislation for the directly elected regional councillors, which is something which is widely supported within the region. My suggestion is that you only do that right now; that you include within the legislation the fact the mayors may sit on regional council if, as a result of a referendum at the fall election, the people of this region vote that they should be there. Since the mayors are being elected anyway, if it's passed in the referendum then they can immediately go on to regional council and there would be no three-year delay or any delay at all. That way the people, who are the ones who are going to be governed by the system here and who are the ones who should decide for themselves how they wish to be governed and not have it imposed by any other level of government, can do so. And then we can find out who is right.

We heard different points. This person says that the mayors shouldn't be on and this group says they should be and it's back and forth and back and forth. I personally support them there because I think linkages are terribly important and communication is terribly important, and that's a way to keep communication. I think if you wanted to put down a weighted voting to allow for representation more by population, then that could be worked out in the question between now and the election. I have no objection to that. I think the key thing is to have the voices of the people of the communities in Ottawa-Carleton heard.

Additionally, of the other items that were discussed, I think there are some real problems with a lot of those items. They could either be handled by other questions—I don't think there's anything wrong with having people's viewpoints made known as long as the questions are clear and there's enough time to have public debate on it before they have to vote on them. I wouldn't want to just say, "Are you in favour of Bill 143 or not?" That's too generic. I think people have to have specific questions because they relate to that. They don't relate to a bill number. That doesn't mean anything to the general public at all. They relate to items and key items.

I really think that this is an opportunity. Someone yesterday said we need to have a solution for the 1990s, not the governments of the—I think they said the 17th century, actually. Your provincial government is based on a model of 1867. The only thing that's happened with that is I think there used to be a senate in Ontario, which is now gone. But in fact, you're still operating largely under a system that's over 100 years old, and you're not planning to change your system.

You're doing a radical change here. It's been pointed out again and again, there is no other place in Canada that doesn't have the head of council on the second tier, whatever they call it. So why don't we look at a new format for the 1990s and say, let the people decide. It's



so easy these days to do that. It used to be difficult, but it isn't any more. We have electronic ways—we're going to be using voting machines in Kanata this year. We'll find out how well they work. But there are ways of tabulating, and even a question could be set up in such a way that if it's complicated, that you count the ballots for the electoral offices first and you count the questions the next day. I don't know why it all has to be counted before you allow anybody to know what's happening. I think you need to have this year's solution.

I was told you could have two amendments or something yesterday. I was listening carefully all day. Why not do it and do it by saying: "This is the government for the people of Ottawa-Carleton. Let them decide. We, as a government, believe in democracy, and democracy is that the majority rules with the protection of the minority?"

If the majority here want the mayors on regional council, it's no skin off your nose. It doesn't bother you. You want to have a system that works for here. Maybe it's different from the system that works for there. With our communication systems today, why do we all have to be operated the same? So a community of 400 people is operated the same as one of two million? It doesn't make any sense at all to me. So that's the challenge that I want to do. The community associations in Kanata have said they want the mayors still on. I think the majority of this region does. But there's only one way to find out for sure and that's ask them, and don't impose it, because if you impose it, you're going to create bitterness. Bitterness is not the way to govern locally.

I'll give you an example. I was the reeve of March township. March township was growing together with two neighbouring municipalities as an urban area. We went to the province and said we wanted to be one municipality. It was a minority government. We had to get three-party agreement, because they didn't want to bother, because it didn't make any difference to them. The three municipalities, which were March township, part of Goulbourn township and part of Nepean, got the province to put in legislation to form the city of Kanata, done by the people asking the government, not the government telling the people. That's the way I think government should be. That's what your challenge is. Thank you.

**The Vice-Chair:** Thank you. Time for one brief comment or question.

**Mr David Johnson:** Councillor Wilkinson, Ms Spencer, thank you very much for your comments and excellent ideas. Your idea is that each of the 11 municipalities would have the same question on the ballot.

**Ms Wilkinson:** I think you could probably get the municipalities to get together to determine the final wording. That does not have to be in the bill. There is time to do that. I do realize, by the way, even directly elected, you put the municipalities in a terrible box, on a technical point, to even do that.

**Mr David Johnson:** And if the answer was favourable, then you'd have the 10 presumably—

**Ms Wilkinson:** Then on the first of December, they take their office the same as everybody else, because that's three weeks later.

**Mr David Johnson:** There would be simply a count of the vote right across all 11 municipalities.

**Ms Wilkinson:** That's right.

**Mr David Johnson:** Very democratic.

**Mr Gary Wilson (Kingston and The Islands):** Thank you very much for your presentation. Unfortunately, there's not really a lot of time to develop the question I had in mind, but essentially, I wanted to ask you, Ms Wilkinson, since you are a councillor, why you think that a councillor representing the ward couldn't do the job of representing their ward in the same way that a mayor could, which has been an issue here?

**Ms Wilkinson:** There are slightly different points of view. I think that coordination is a necessity. The regional system is a two-tier government system in that a lot of the things done at the region are initiated by the local municipality or vice versa. There's a lot of cooperative type of work going on between regions and local governments. Planning is a good example, waste management, lots of different things. We have lots of contacts back and forth continuously.

If you have the mayor there, they are extremely familiar with all the day-to-day things going on in their municipality.

**Mr Gary Wilson:** And you don't think a councillor could be in the same way?

**Ms Wilkinson:** No, because I've been both, and I've been off and on. So I've had that kind of experience. You would be working with your people, you'd be talking with them, but you're not there every day. You can't be. It's that extra depth of knowledge that most people have that is really important. Initially, probably any regional councillor will have served on a local council, but in 10 years' time that may not be the case and they may not know how the local council even works.

0940

**Mr Gary Wilson:** No, but surely they'd know their ward very well and the impact of the council on that ward, perhaps even in more depth than a mayor, who has wider responsibilities.

**Ms Wilkinson:** That's quite possible. That means you'd balance your knowledge of working with your people in your ward and the mayor's knowledge of the community, and to put the two together is dynamite. I think more information is better, not less.

**Mr Grandmaitre:** I direct my question to staff. Mr Barnes, this is the second time we have heard the possibility of resolving our problems in Ottawa-Carleton through the referendum style. Mrs Wilkinson is repeating what the regional chair suggested some months ago. Has the ministry considered that possibility, a referendum?

**Mr Doug Barnes:** I would have to say that what's in the bill is currently what the minister wants to bring forward, and the deliberations to arrive at that also include submissions by many people, including the regional chair, which had that suggestion.

**Mr Grandmaitre:** So what you're telling me is that what we see is what we're going to get.

**Mr Barnes:** You're asking me a political question



which I really am not in a position to answer, Mr Grandmaître. If you want to ask me a question with regard to referenda, I can tell you how they work.

**Mr Grandmaître:** Mr Barnes, I don't want to go into details. Was it considered, yes or no?

**Mr White:** Mr Grandmaître, the issue Mr Barnes points out is that the referendum is a means of securing consultation. The ministry, under many different political stripes, has sought consultation on this issue over the last 20 years. It is a form of consultation.

**Mr Grandmaître:** Was it considered?

**Mr White:** We have had the Kirby, the Graham, the Bartlett reports. We have had extensive consultation. This is another means of consultation. Many people might find it to be just as intrusive, especially if you have a piece of legislation which imposes this form of consultation upon the region.

**Ms Yvonne O'Neill (Ottawa-Rideau):** Oh, my God. How could consultation be intrusive?

**Mr White:** A referendum would be intrusive if it was mandated by legislation.

**Mr Grandmaître:** Intrusive?

**Mrs O'Neill:** Our case is made.

**The Vice-Chair:** Ms Spencer, Ms Wilkinson, thank you for your presentation.

**Ms Wilkinson:** Mr Chairman, I had prepared a press release on what I said which I could give so you'd have copies of some of my comments.

**The Vice-Chair:** Thank you very much.

AL BROWN

JIM WATSON

**Mr Al Brown:** Thank you for the opportunity of participating and commenting upon the proposed legislation. My name is Al Brown. I live in Nepean and I'm a former councillor in Nepean. I'll say at the outset that my purpose of participating in this hearing is not with a view to returning to politics. However, I feel I have some comments to offer from my background.

To me, it's clear that this proposed legislation is but the first step to imposing one-tier government on this region. But what is really the rationale? Nothing is perfect, of course, but in my mind, the current system runs fairly well, believe it or not. As I mentioned, I come from Nepean, which is a fairly well-run, debt-free municipality with a great deal of amenities. What advantage is there to being merged with the others?

You might say this is parochial or self-serving, that Ottawa provides the jobs and places for people to work and we live in Nepean. While this may have been true in the past, I suggest that the high-tech industries, which are the growth areas, Nepean and the other municipalities are now creating at a much faster rate than Ottawa, in the inner area. In fact, it's a two-way street: People travel to Ottawa to work, and people travel from Ottawa to Nepean and to the other municipalities to work. And if there is a bit of competition for new industry between municipalities, I believe that's healthy.

In any event, I participated in some of the Kirby hearings, and at least in Nepean I found virtually no

support for a one-tier government or indeed for the proposals expressed under this legislation.

On representation, which was alluded to by the last speaker, it's my view that by creating a separate class of regional councillor, who in some cases represents parts of two municipalities—for example, parts of Nepean are now going to be combined with parts of Ottawa—you're removing the level of government a step from the people and the local issues. On the other hand, from what I understand, the local municipal councillors will have their jobs reduced to nothing very meaningful; they'll be in charge of parks and bylaw enforcement.

Also, I find it reprehensible that it's proposed to remove the mayors from regional government, and I cite the many reasons that were cited by the previous speaker, Ms Wilkinson. Beyond that, as I already said, the proposal is to combine parts of Nepean and parts of Ottawa into one ward. The councillor from that ward surely cannot represent a particular city, such as Nepean or Kanata, as well as the mayor.

Furthermore, it's now late April and a very late date, as far as I'm concerned, with regard to the fall election, the election being the first week or so of November. It's going to be very difficult for any serious candidates to plan for the election. This planning should be well on the way by now. Having been involved in many municipal campaigns, I know it's difficult enough in these times to raise money and support, but with the uncertainty in the organization which has persisted for the last year, it must be very tough for credible candidates to go anywhere.

It's also my understanding that the wards would be established solely by the province, which I find offensive. It implies a lack of trust in our municipalities and their ability to organize themselves.

Finally, I would add a comment on regional policing. Everyone agrees, I think, including the government, that the costs will be greatly increased, and to what end? This is a move away from community-based policing, which appears to be working very successfully in our municipality. Recently, Ottawa police announced that if there's not a crime in progress, essentially a life-threatening crime, from what I understand, they will not respond until they get around to it. I can see this being the norm across the region, because those extra costs will not be putting more personnel on the street. We can't afford to pay more taxes and at the same time get less service from our police department.

I will conclude with a recommendation. My recommendation is to leave things alone, or, if we must change, don't do it for this election but give it more time for consideration and introduce changes for the 1997 election.

**Mr Jim Watson:** My name is Jim Watson. I'm a city councillor for the city of Ottawa. I'd like to begin by thanking the opposition members of the committee for pushing for the public hearings, and also Mayor Franklin and Mr Brown from Nepean for allowing me the opportunity to share a part of their time, because like most citizens of Ottawa I was given virtually no notice of these committee hearings, nor was the public. As a result, we've had to team up and it's strange bedfellows, Nepean

and Ottawa sitting at the same table together, because while we have differing views on regional reform, we both share the opinion that Bill 77 and subsequently Bill 143 would not be good for the taxpayers of this region.

0950

I want to talk about the process of this piece of legislation and not the details of the bill; that's been talked about ad nauseam yesterday and it will be again today. I find it unbelievable how poorly this process has been handled from day one, when Bill 77 was first introduced. It's ironic that the minister of the day who introduced Bill 77 is now the government House leader. I find it strange that we had a bill that came forward, House management was clearly not well handled on the part of the government, the bill was not passed by the end of December, and candidates could register for office at the beginning of January. We were then told that a new bill would be introduced. Full-page ads were placed in newspapers in this region advising that the bill would be passed by May 1. The Speaker of the Legislature in fact said that those ads bordered on contempt of the Legislature because the legislation had not been passed.

The reality of the situation is that this is not only unfair to the taxpayers but it's also unfair to anyone who wishes to seek public office at the local level. We are now in a situation where we're months away from a municipal election. Anyone who is an incumbent or non-incumbent is at a terrible disadvantage in terms of not knowing the final outcome of the boundaries, not knowing the final outcome of Bill 143. I place the question to you as politicians: How would you react if your government came and within six months of an election changed your boundaries dramatically? How would you react as someone who wishes to seek public office? It puts individuals in a very unfortunate situation.

I also want to comment, as I mentioned a little earlier, my concern about this process, the fact that there has been virtually no public consultation with the people who are going to be most immediately affected. It is also unfortunate that various members of our council in the city of Ottawa who happen to support the legislation were given advance notice of these hearings and an opportunity to put their name on the list, and someone like myself, who does not support the legislation, had to find out about it on Thursday. Ads were placed in papers at that time. Thanks to the good graces of the city of Nepean I was able to share a few moments of time to address you.

The two largest community associations in my ward, which is represented one half by Ms Gigantes and the other half by Mr McGuinty, were both asked to pass resolutions of support for the old Bill 77 a few months ago. When the additional cost of political salaries, political bureaucracies and office renovations for regional councillors were explained to them, both of those associations overwhelmingly voted against the piece of legislation.

Now, like a deathbed repentance, the government is trying to desperately push the legislation through at the last minute with a day and a half of public consultation, despite the fact that there are dozens of other people in my community and throughout the region who would like the opportunity to speak before the committee but have

not had that opportunity. So I would ask members of the committee to please consider showing some leadership. I know it's difficult in a parliamentary system for a committee to go against the will of the government, but I ask that you take the bold step and reject this bill, because at this point the status quo would be better than this bill; from the point of view of the taxpayers, it certainly would be cheaper.

The Chair of this committee is from Sarnia, one of my many former home towns. Sarnia and Sarnia township went through enormous changes over the years, but there was public consultation and it was not brought in at the last minute, at the stroke of midnight. The public at that time appreciated that. They may not have agreed with the amalgamation, but they appreciated that it was not coming in at the last minute.

The thing that's disturbing a number of people is that changes that are going to be fundamental to the makeup of this government of this region are being brought in literally months before the public goes to the polls, and I don't believe that is a fair way of doing things. I would ask members of the committee to please take into account the timing factor, because we have seen reform proposals come and go over the years, but we've run out of time. I don't think the public really has a true sense of the full implications of Bill 77 and its successor Bill 143. Thank you.

**Ms Christel Haeck (St Catharines-Brock):** Thank you very much to both of you. I come to this committee as a member from the regional municipality of Niagara, and I have to tell you in all honesty that regional government is the most reviled form of government among the citizens of region Niagara that you could possibly imagine. It's been noted that over 76% of the people in the city of Niagara Falls, which did take a referendum in 1991, wanted to see its dissolution.

They, in fact, if you gave them the option of one-tier government would overwhelmingly vote for it, because they feel that they would like to see two-tier government eliminated. Having regional councillors I would see as an advantage, personally, not even as an MPP but speaking strictly as a citizen and taxpayer of region Niagara.

I would take it, Mr Watson, that you have some concerns about process, a process that's been going on for some 20 years, which likewise in Niagara has been going on for a considerable length of time and we end up with the same situation, although there have been some different recommendations here.

Having heard Mr McGuinty's remarks in the House, I suspect he's reflecting his citizens and that you're probably reflecting many of your taxpayers', that while they may have some concerns about process, they agree with the concept of one-tier government.

**Mr Watson:** I should just point out that while talk of reform has gone on for 20 years, Bill 143 certainly is a relatively new piece of proposed legislation which has only been before us for three weeks, about 20 days.

**Ms Haeck:** My question to you was whether or not you personally agree with the concept of one-tier government. I've heard your comments about 143.



**Mr Watson:** If I could just follow up on that in terms of another consideration, you talked about regional councillors. I happen to also be, as all my colleagues on city council are, regional councillors as well. One of the things the public has some appreciation for is the fact that there's one-stop shopping: When you call your councillor you can deal with a city matter, a regional matter. There's no confusion among the electorate, there's no bickering back and forth. That's what I really fear is—

**Ms Haeck:** That's a very good point in light of some of the other presentations that have been made. I think it actually puts to rest some of the concerns of the other members of the audience.

**The Chair:** Thank you, Ms Haeck.

**Ms Haeck:** Mr Huget, I'm sorry. I just feel he was making some very good points that had to be remarked upon.

**The Chair:** Do you wish to conclude your response, or are you finished?

**Mr Watson:** The reality, Ms Haeck, is that in terms of this piece of legislation, I see we're not going towards one tier. I'm here because of the good graces of Nepean and I'm going to be sending a written submission in terms of my own views on the one-tier issue that I hope that you would take into account and consideration.

**Ms Haeck:** Most definitely.

**Mr Daigeler:** At the beginning of both of your remarks you made reference to the fact that Nepean and Ottawa appearing together looks like strange bedfellows. Actually, this brings up a good point, that we in Nepean certainly don't have anything against being in bed together as long as it's consensual. Frankly, I feel quite strongly about this. The imagery is quite good because—

**Mr Grandmaitre:** He's addressing the wrong bill.

**Mr Daigeler:** I'm not talking about Bill 45.

*Interjections.*

**Mr Daigeler:** These are inside jokes here.

I feel the imagery is not inappropriate, because frankly, what I heard yesterday from the city of Ottawa very much suggests a forced approach. If there is cooperation and sitting together, as you are doing now—you're working things out—I think it can be done, it has been done in the region and it should be done. I think that's the point that I'm trying to make here.

1000

I was not aware of your position. Has there been at your council a debate on this matter? When your mayor appeared yesterday, whom was she speaking for? Did she speak on her own behalf or did she speak on behalf of the whole council on the basis of a discussed position?

**Mr Watson:** That's a very good question, Mr Daigeler, and having not heard what the mayor said, I can't really comment. Mayors often say things that they believe in and their councils don't believe in, but our council did take a position generally in support of regional reform, although I was one of I think two or three who did not share that point of view.

When this issue came forward the public seemed to think, when you talk reform, "Oh good, it's going to

change the way we do business; it's going to save us money." I think as more and more comes out about this bill, we're realizing this reform is not going to save the taxpayers money. It's going to be more confusing. There are going to be, I think, fiefdoms built up within the region and the city and sparring back and forth.

I think the fact that we're here together shows that there is the need to reform the system and there is a spirit of cooperation, but I think this bill is going about it all the wrong way. I think the fact—I go back to the procedural point of view—the fact that we're at the last minute trying to ram a piece of legislation through with virtually no public input—politicians love to talk about public consultation but the public are getting fed up with the sham of public consultation where you fly in and nod and go off and do what the majority wants to do.

I'm offering the challenge to the government members of the committee: I think if you listen to some of the comments of the public and the politicians who are appearing, you'll realize that there is a great deal of concern about this legislation and I hope that common sense would prevail at the end of the day. Because I don't think this is the kind of reform that the public wants or can afford.

**Mr David Johnson:** Thank you, Councillor and former Councillor. One aspect that perhaps we're not thinking of here: I believe that the people of Niagara, if they're expressing discontent with regional government, and that discontent is being expressed I think across Ontario, frankly—it certainly is in Metropolitan Toronto—that in their mind the option is not necessarily to go to one tier at a regional level but to go back to the local councils and simply do away with the regional council. I think that's maybe something that is not coming through.

But even in Metropolitan Toronto, I can tell you, there's a significant movement now to do away with the regional council and to go back to the six local councils. It's not going to be something that's going to be easy to achieve, but that seems to be the kind of flavour.

It's apparent to me, from speaker after speaker, that there's been virtually no consultation on this bill. The government talks about the Kirby report and all the consultation associated with that, but there are so many different aspects of the Kirby report to what we're seeing here today. It's becoming more and more apparent that, far from the overwhelming support that the government claims, there's very underwhelming support. Even in the city of Ottawa now I'm seeing that.

My question, particularly to you, Councillor, because you're involved in the middle of this: I'm becoming more confused as to what is the driving force behind this. If the people seem to be opposed to it and the political leaders have problems with it—

**Mr Daigeler:** It's called the member for Ottawa Centre.

**Mr David Johnson:** I'm trying to step back and say, why are we doing this or what is the motivation? Is there some political philosophy? Do you know what it is?

**Mr Watson:** That's a good question. I think perhaps



the member for Ottawa Centre might be better able to answer that question than I can.

One of the things that we find, regardless of who's in power, there's always this thing—whether it's a myth or reality—that eastern Ontario is often forgotten in government, and we see it time and time again.

Here is probably the most important piece of legislation dealing with regional government to come before us in many years, and again here we are on a Saturday morning in the month of April, months away from municipal elections, and we don't feel that we've been listened to. Yet, when Metro Toronto had its issue with tax reform, market value assessment, which quite frankly split this community—my community happened to suffer probably the most of any in the region. But special and preferential treatment was given to the residents of Toronto because they appeared to have a stronger voice around—whether it be the cabinet table or the Legislature and more time was spent on that issue.

Now we're here at the last minute dealing with a piece of legislation that's going to affect every single taxpayer in their pocketbook and we don't appear to have any commitment on the part of the government members to at least listen to the arguments.

I hope I'm wrong. I hope at the end of the day that substantial amendments do come forward or, better yet, that you say: "Look. We tried. It clearly doesn't have the support of the public. We're better off with the status quo." This has acted as a catalyst for at least various groups to get together and talk about the problems of overgovernance. That's what it boils down to, because a friend of mine once said that Ottawa-Carleton, probably without a doubt, is the most overgoverned jurisdiction in North America, with six school boards, 11 municipalities, a regional government, and the NCC, which in essence is a form of local government.

**The Chair:** Gentlemen, thank you very much for appearing this morning to express your views.

MARION DEWAR

**The Chair:** The next witness is Marion Dewar. Good morning and welcome. You've been allocated 20 minutes, and the committee would appreciate a portion of that for dialogue, questions and answers.

**Ms Marion Dewar:** I'll try. I was a local municipal politician and we've been involved in this kind of dialogue since the early 1970s in Ottawa-Carleton and I served with some of your colleagues on the Ottawa-Carleton regional council.

Just hearing some of the debate this morning, I guess I want to preface my remarks with one of the things that is happening, I think, around the world, which is the reduction of organizations into smaller organizations that have been able to nurture and feed a very strong nationalism that we have seen happen in countries that is not a very comfortable kind of direction. I'm thinking of course of what's happening in Bosnia, what's happening in Africa and those kinds of things. I've done some work in the development field.

I think in Ottawa-Carleton—not that I have any bias or anything—we have probably managed to deal with

minorities in a better way than many of the communities across the country, and I think it's really important that we continue in that kind of element. So philosophically, if we're talking about breaking it down and getting rid of regional government, I probably would have said in 1974, "Get rid of it." I think now that we couldn't get rid of it anyway with any reasonable, rational sense, so let's try to make it work and make it work well.

I used to be the mayor of the city of Ottawa and I can't tell you how often people used to say to me, "But it's not your fault. It's regional government," and I'd say to them, "But I'm on the executive of regional government." They could never quite get those two concepts because they didn't elect me as their regional representation; they elected me as their municipal representation. They couldn't divide necessarily in their own minds.

The Mayo report came in with some of the similar recommendations around 1975-76 from Carleton University and then we had the Bartlett report. I'm really glad to see Mr Bartlett here this morning because he did consult. Certainly Henry Mayo consulted and Graeme Kirby consulted. I went to meetings when Graeme Kirby was there and he was crying: "Where are the citizens? All I get are old municipal politicians or municipal politicians, but where are the citizens?"

**Mr Daigeler:** In Ottawa there were lots.

1010

**Ms Dewar:** Oh, I was out in Nepean at two of them and there weren't a lot of citizens.

**Interjection:** You couldn't have been at the same meeting I was in.

**Ms Dewar:** No, I obviously wasn't. But I think the big thing that we have to look at is, all you have to do is look at the voter turnout and what you're looking at is a very small turnout compared to what the turnout is both provincially and federally. It's always been something in my heart that I've felt very bad about, that I think municipal government can be the government that's closest to the people and yet the people don't turn out to it. I have many friends who are not politically involved with anything who don't vote municipally for the simple reason: "I'm sick to death of all of you people there, all of you representatives. I get school board lists like this and I get the same kind of thing from regional council that is making all the big decisions about the budget these days and I don't have any say." These are the kinds of comments that I've had.

So I think that what you're doing in directing the bill the way you are is a positive thing. I don't accept the fact that there has been no process because, as I say, there's been a process going on in this region since 1976: same questions, same outcomes usually and then resistance to change.

I also think it's important that you are reducing the number of elected representatives. I think we have to look at ourselves—and I'm saying this now as not holding a position—you would have to question what my interest is if I were the mayor of the city or of anywhere else and how does that fit with the general electorate. I think there are times when there are some conflicts.

I also have, and I have had over the years, a real concern about a person who is elected by 8,000 or 9,000 people having an equal vote as persons who are elected by 25,000 to 30,000 people. That's what our ward breakdowns are in our highly urbanized areas versus our rural area. So we are starting to look at representation by population. To me, it's a much more democratic kind of representation.

I also would like to take just a minute and talk about economic development and also the regional community associations. For years—and I'm talking about both being at the regional level and at the city level, and before I was elected to council I worked in the city of Kanata—I heard the private sector saying, "We really need, first of all, a stronger thrust in economic development by the region." The private sector feels very strongly about that, and I know why, because when they're out looking for a business or wanting to get something established and something done, they want to get it done. They don't want to go to a couple of layers of government; they just want to move with it.

Secondly, I don't think that within an area like ourselves that competition of one municipality versus another municipality is a good thing. I think it's negative energy because if something comes into the town of Orleans that is industry-oriented, that brings jobs to this region, we all benefit. I think we really have to look in those terms of about everybody benefiting and doing the rationale of economic development as far as that's concerned. Certainly your community organizations across the region have said that they want to see less government and they want to be able to look at things in a way that is rational.

When people talk about regional policing—and we are the only region that doesn't have a regional police force. We were the only region that didn't have regional child care, and if you ever try to get that through regional council, I can tell you, when you've got people who represent, as I say, 7,000 or 8,000 people versus 25,000, you'll never get the chance. All you have to do is look at the history of Ottawa-Carleton and the reason we don't have a regional police force is because it wasn't done in the original act, and it was the only place. They never made that mistake again when the provinces were putting regional governments in place.

If we think that having five or six different police forces is going to give you more community policing, then obviously administratively you don't understand how services are delivered. You have to deliver services in different parts of the community in different ways—I feel very strongly about this—but you wouldn't deliver policing in every part of Ottawa the same way. You wouldn't deliver policing in other municipalities the same way. If you do, you're not doing a good job. You've got to look at preventive policing. You've got to look at some standards across the region. You've got to look at sophisticated, forensic kinds of approaches where they'll tell you they share their information and so forth.

We had a tragedy that I happen to know a lot about from a personal point of view, about a year and a half ago, two years ago, and it was a combination of forces working together where one didn't know what happened

and a man died in the process. The time has come that we've got to put the administration under one order and then divide your policing sections up so that they're administered with different ways to respond to that community. I think that's crucial.

As far as the cost, nobody consulted us about what cost it was going to be when they established regional government. They were the heydays and there was lots of money around, and it cost us. People don't always look at what the short-term and the long-term costs are. When I have to do maintenance to my home and it cost me a lot this year, it's because it's going to cost me less 10 years from now. I think that's the kind of thing that we're looking at when we're looking at the reduction of elected representatives, as well as looking at the reorganization of the Ottawa-Carleton region.

One of the things I want to say too—and I just can't help it because it's a personal thing with me—is one of the reasons that this bill is being rushed through is because of our adversarial government structure. I don't blame any of you because I know that's the system we're in, but the reality is that the opposition held up the bill from going through because they were doing tradeoffs in back rooms, and I hate all that kind of thing. I just think it's the kind of system that I'd like to see reformed so that we start to do some problem-solving with our opposition and our government instead of all this "Because it comes from one place, we've got to oppose it the other place." You're all so bright and you care so much and you're there because you do care about your constituents and yet you end up always in adversarial positions instead of getting together and doing things, which I think we were able to do very often at the local level.

It's just a comment, but instead of sort of getting all uptight about the timing of the bill, look at yourselves and realize that you've all been party to making sure that the bill gets held up, both from the government side, I must say, as well as from the opposition side. Once in a while we should look at that honestly and say, "Well, you know, we use the tricks of the trade to do this, but let's not pretend that it's some glorified kind of great goal that we were trying to do in holding that up."

**The Chair:** Thank you very much. Questions?

**Mr Grandmaitre:** Mrs Dewar, I think the very first line in your presentation this morning was that everybody was looking for a reduction in their organization or a reduction in the size of their government. I think people are requesting this for an economic reason, but also people in the 1990s are expecting better communications, better consultation with their government.

This is a perfect example. I don't want to go back to the days of David Bartlett and even Mayo and so on and so forth. We did have consultation. But the way this late Bill 143 was introduced, it was insulting to the opposition. You know. You've been around politics for, God, I don't know how many years but a long time; long enough to realize that—

**Mr Daigeler:** Not as long as you.

**Mr Grandmaitre:** To blame the opposition for



holding up this bill I think is totally false because this government has used that closure power on 13 different occasions, and if this bill was so important to the government, it would have had closure on it and it would have been a settled matter tomorrow morning. But no, they wanted us to linger and pretend they were consulting people, but they weren't. This is why we're meeting on a Saturday morning, at the very last minute, at the 11th hour, and this bill has to be back before the committee on April 25, and that's it, May 1.

Your message was well appreciated. I think not only the government but the opposition has learned something. But you have better connections than I have with the present government and I think that's the message you should pass on to the government, that we should have better consultation, not simply say, "We're having consultation," but really mean it.

1020

**Ms Dewar:** Ben, you know from working with me, and we have worked together for a long time, I'm a pragmatist. One of the things that makes our governing bodies very negative at times is that we are always trying to attribute blame instead of looking at solutions.

The reality is that we're into an election year this year and there's been another study done, of the three, of Ottawa-Carleton region, with many of them with the same flavour, the same thread through the fabric, of what needs to be done. What we need is to have that reform take place, because it's been restated so many times, and it does reduce the number of elected officials and it does give people representation by population. It also gives people the ability to know who is doing what in their region so they can go to them. From a strictly pragmatic point of view, it needs to get through.

It's not as if Ottawa-Carleton regional reform came on the agenda in the last year. It's been there for a long time. And don't forget, we were the first experiment and we've lived through a lot of the difficulties in the region.

But you talk to the man or the woman on the street in any of your communities and ask them about regional government—I'm not talking about the activists that are coming forward and so forth—and they'll say to you, "Just give us one local government and get rid of the National Capital Commission." People who aren't from this area don't realize that we can go through an economic development, we can through a planning process, and we can have it stopped because the federal government owns about a third of our resources, our land mass in this area. Really, both the provincial and local governments haven't got as much say as they'd like to have, so the people would like to know the direct communication with their councillors.

**Mr David Johnson:** I suspect we may have to look at models that do eliminate regional government. It won't be easy, and to me it was unthinkable even a year ago, but having gone through the process I've gone through in the last year, there seems to be a great deal of sympathy for that and we have to look at those kind of models.

I'm going to make two comments because I'll probably only get one chance, and you can respond to either one.

You've put so much emphasis on rep by pop throughout your presentation. What I'm asking you to respond to as one part is that you were candidate in the federal election for the NDP, I believe.

**Ms Dewar:** Yes.

**Mr David Johnson:** I think of Prince Edward Island. Prince Edward Island has been overrepresented for ever, yet nobody seems to object to that. If you had been the elected member in Ottawa—I don't know where you ran, but wherever you ran here—I doubt you would have gone into the House of Commons and demanded that Prince Edward Island receive its proper representation by population. I think you would have said, "Canadians recognize that Prince Edward Island has a special status." If it applies there, why doesn't it apply here in Ottawa-Carleton? If it applies at the federal level, why can't it apply at the local level? That's one aspect.

The other aspect: Doesn't it bother you a wee bit, as a person who cares deeply about municipal government—you've certainly had that reputation; you've spoken about it today, about minorities etc. It just seems to me a bit inconsistent that here you are supporting a stronger regional government, which is getting away from local people, which is getting away from what people want, and indeed some people are coming here and saying that where this is headed is a one-tier regional government, which will be extremely remote, providing all the local services that people care about at a remote level. Isn't that inconsistent with your past?

**Ms Dewar:** I don't think so, because what I'm saying is that I don't think the level of the numbers of bureaucracies you have necessarily delivers closer services to people. For instance, in our social services community here in Ottawa-Carleton—and I would ask any of you to talk to community and social services departments in the province of Ontario, because I've consistently heard that we have done things that are quite unique in terms of decentralizing, starting new programs, working in partnerships with community groups. This is at the regional, because community and social services has always been regional here.

I don't think the administration, the power to administer, necessarily removes the service from the people. We've got far too much administration, and I think that's what people are really complaining about. If we can have a single administration, with programs that are decentralized, then you start to—I mean, if you want me to really carry on, I think we should get rid of school boards in Canada and I think they should be under local—but that's not on the agenda.

Look at the European models, though, in France and Belgium, Germany and so forth. That's what happens. You have a commission of education that has a lot of power at the local level but then a variety of different kinds of schools. You have different schools under different kinds of jurisdictions.

The Prince Edward Island thing: I used to be very active in the Federation of Canadian Municipalities as well as the Association of Municipalities of Ontario, and there isn't anybody in any of those associations who hasn't raised the point of Prince Edward Island. Of



course, the reason we probably will never be able to do anything about it is because of the BNA Act and the way we're paralysed in Canada in terms of constitutional change.

The reality is that Prince Edward Island is probably the size of two wards of the city of Ottawa and it gets direct transfer payments from the federal government that municipalities in Ontario can't have. The other thing is that we have argued over the years in the municipal field that we should have a say as a legitimate level of government in the BNA Act so we could have that kind of thing.

In many ways, it's really important that we look at a region together that works together, is completely bilingual, that cares very much about its minorities, about its two official languages, that operates everything in those two official languages. The regional municipality and the city of Ottawa are officially bilingual; the province isn't.

**Mr White:** I will try to be very brief and very quick. The issue that's before us of course is that despite the thousands of consultations, we still hear from people saying that the Regional Municipality of Carleton Act of 1969 works very, very well, thank you very much: "It's not broke. Don't fix it." But you were alluding to the fact that from a police standpoint there are some problems and it doesn't work, that this is a structure, particularly in the police area, that is broke and does need to be fixed. I'm wondering if you could elaborate on that from your experience with the police commission.

**Ms Dewar:** If you're working, for instance, in a municipality where, as here, we have several municipalities and you cross the border from one municipality to the other, you have a different kind of policing service and a different chief to whom the police officers are reporting and who administers it. What we need to do in our region is consolidate that so your police officers are working under one principal standard, one service and one kind of delivery. That means that you'd be able to take some of your resources and put them into different models in different areas.

I hear "community policing" all the time from people who oppose this and say it's going to stop community policing. I suggest to you that we were into community policing in the city of Ottawa before any of the other municipalities had even talked about it, yet we were the largest municipality. We were looking at that in 1978 and implementing it.

I happened to be in Toronto yesterday and was talking to a person totally unrelated to anything political, a lawyer who works on patent law, just to let you know how far removed he is from what we're doing in municipalities. He said, "I am beginning to feel so good about our metropolitan police force," because we now have bicycle policing along the areas where a lot of our aboriginal police are. He said, "I was down on Queen Street yesterday," I think he said, "and there were two police officers and a group of aboriginal people, and all I could hear was laughter." He said, "It made my day, because I thought, here are the police officers and the aboriginal people, and a couple of them were obviously street people, and they were laughing and cheering

together."

That wasn't because of the structure of having six different police forces—they don't have them—but it was the structure of a policy of how to deliver a force. I happen to think that's right. Gosh, we've got to get rid of all the layers of bureaucracy and start to say, "We can administer this"—and somebody mentioned high tech. With our high tech we can certainly put in administrative units that are very efficient and then get our services to people, use our resources; instead of just laying them off, use them to deliver services to people, because that's how we can really respond to people.

**The Chair:** Thank you very much for appearing this morning and presenting your views.

1030

JOHN GRUBER

**Mr John Gruber:** Good morning, sir. I will try and not raise your antagonism level by going overtime. My wife will be surprised. I represent myself and I'm a resident of Kanata.

I speak as a concerned citizen who has endured the introduction of regional government, the amalgamation of various communities to form Kanata, Bartlett, Graham, Kirby, market value assessment, Bill 77 and its offspring.

I accepted the minister's suggestion on Kirby and previously provided comment on Bill 77 and 143, variously, to the two concerned ministers, Minister Gigantes, my local MPP, my councillor and mayor. I have used all available public information, including press—mostly, to my community, foreign—and the system to provide my public input to the government.

My purpose and concern with Bill 143 are fourfold:

—First, the process, which seems to have obscured the problems to be solved and any factual logic base and a solution flow.

—Second, the regional policing amalgamation and the control-cost-service impact on communities like Kanata which have paid for full OPP service.

—Third, the apparent arbitrary exclusion of mayors from regional council.

—Fourth, to me, the surprise and random inclusion of school board changes in 143.

My process concerns are with Kirby through 143 only, not historical. I can best illustrate them by quickly going through Kirby's mandate, which was of course, as has been stated earlier, to consult, but the point that should be noted is that unlike the other two studies, Bartlett and Graham, Kirby had no mandate or resources to undertake research or analysis.

The Kirby recommendations were delivered in November 1992 and he brought forward all of the Bartlett and Graham recommendations, to total 41. We were all asked to provide comment by February 1993, again a very tight time frame.

The city of Kanata response included a citizen task force and public discussions. The final submission was prefaced by a number of regionally oriented principles. It endorsed 28 Kirby recommendations outright and only asked for change in 13.

Bill 77 was tabled suddenly, on July 22, 1993, on the general premise that it was based on a series of recent studies, with the need to act now in order to streamline the delivery of regional services. Because there was no direct linkage to the Kirby recommendations, implementation appeared arbitrary, with no logic or fact foundation from the earlier study needs. I note, coincidentally, the release of the 10-year, fairly expensive, Colter study on Niagara policing. That arrived without any connection but simultaneous to Bill 77.

The minister insisted on passage of the bill, and all changes were resisted, including very expensive ads he has taken out. I saw no cohesive, publicized intergovernmental plan to staff and implement Bill 77.

The regional amendments prepared on December 19 by the regional solicitor in an attempt to move Bill 77 were issued as a report or annexes for municipal comment. They were never discussed or approved by executive council and were subsequently withdrawn on March 28. I would ask you to note those amendments; they will come up again. The regional chair, on March 2, in a local community association stated he had been unsuccessful in having Toronto make any changes to Bill 77.

Bill 143 was tabled and received second reading on March 24, with no notice and few copies available. I concluded, from my examination, that most changes are verbatim, from those regional proposals, annexes A-2, A-3, and A-5. It appears that no public or municipal changes were heard and certainly not officially included.

And then of course the legislative committee: We first had notice on April 7 in the press with a target for bill passage by the 25th, and our attendance at this meeting was only confirmed on the 14th.

If I could summarize my process concern: There is now a great rush for public comment on a revised bill, with no time to assess or provide normal municipal and other inputs. The value of the extensive and structured Kirby consultation is obscured since changes are not supported by known research or analysis. Throughout, the minister has consistently resisted Bill 77 changes.

Another concern is the sudden random inclusion of Education Act changes. Yet the school board fact-finder study, the Bourns study, as I understand it, was completed well after Bill 77 with, to my knowledge, no known public input or discussion since.

The regional council is going to have to manage this lot, yet never discussed any of the withdrawn proposals, three of which are almost verbatim, as I said earlier, in Bill 143. If the Speaker of the Ontario Legislature ruled that the minister was very close to contempt with his \$12,000 ad, I personally can conclude that he must be in real contempt with the process.

I now address regional policing. My concerns in Bill 143 are that Kirby recognized that policing was carried out by three municipal forces, the OPP under full service contract to Kanata and Rockcliffe Park, and the OPP free to the remaining rural areas. He stated that all forces provided excellent service but could be better, but he did not specify how.

Kirby examined preceding studies and regional

arrangements in many other jurisdictions. Because of mandate-resource limitations, the municipalities had to fund the financial study. He did conclude there would be some large cost increases—for example, Kanata at 82% or more—for no better service.

Bartlett, and I respectfully use his name, recognizing the agenda this morning, in 1993 written public commentary stressed that regional policing in this region has not been the subject of recent research and nobody has enough information on which to reach an informed conclusion, then adds: "Pooled ignorance does not necessarily produce wisdom."

Based on everything seen during Kirby, any non-anecdotal problems of interoperability, communication, cost and common procurement could be addressed by better cooperation within the existing structure, in my view.

The lessons from the Colter study, released the same day as Bill 77, could not possibly have been applied. From that study, I conclude there is no universal consensus on the beauty of police regionalization.

#### 1040

My specific concerns with policing as it affects my community are that:

—The bill is very specific about municipalities that have their own force and those that did not pay for OPP but quite deliberately avoids any reference to those, like Kanata and Rockcliffe, that have been paying for full OPP service. Yet there is a very clear and deliberate act to remove control by abolition of all municipal boards and the exclusion of all current board members from the planning process.

—The costs for Kanata policing will clearly increase. In a rural-urban mix, personnel, which are 88% of the total cost, are not reducible by any managerial or technology changes. Kanata currently has the lowest police to population, police cost to municipal cost, supervisory and support to constable ratios of anybody in the region.

—In accordance with the act, the region will pay principal and interest on all assumed policing liabilities. The assets are non-liquid and transfer without compensation. The size of this debenture liability is not known but, to me, we have another large hidden cost for the taxpayers.

—The region can change tax levy for an area municipality experiencing increased costs for up to five years. In my view, no amount of mill rate bookkeeping can change the fact that the costs will be more for no better service and certainly, initially, less. The press has noted possible provincial grants which, in my view, is in direct contradiction with the disentanglement process in which grants, I believe, are trying to be reduced, if not eliminated altogether.

—There is no published regional policing model or plan and thus the release of the Niagara regional study could be assumed as connected. I've assumed it, I don't know whether anybody else has. For Kanata a more appropriate model would be London and the OPP police contract after the Westminster annexation. That would be a better model for my city, I believe.



—The minister, in a response to me, stated that people often work in areas other than their residence, inferring that there is disproportionate sharing of services. It's a good theory, a good principle, but locally it means the core provides services, I have to say it, often anecdotal, to outposts like my own community. In truth, there are pluses and minuses and no one, including Kirby or anybody who has followed him, has carried out an analysis to determine the pluses and minuses. Until that plus and minus is quantified to see whether in fact the living, working, cost-service flow is in fact one way or the other, I am getting a little tired of having to pay for philosophies.

**Regional council:** The withdrawn regional proposal that I have referred to earlier states that Kirby recommended 18 councillors, directly elected, and the mayors of all area municipalities, except Rockcliffe. It was endorsed by regional council with a similar recommendation made by Bartlett. It concludes that Bill 77 is inconsistent with the position of regional council or either review commissioner. It is a political issue on which a staff recommendation would be inappropriate. Again, because this was excluded, whereas annexes A-2, A-3, and A-5 from the same withdrawn document were included, I conclude the logic for Bill 143 is not in the public domain.

In my view, the arbitrary exclusion of the mayors from regional council removes a check and balance where an expensive regional councillor with a singular regional focus or other philosophy is elected. The mayors are the focus for municipal financial accountability which they would bring to the regional table in addition to the directly elected connection through the municipality to the citizens. Much of the suggested \$100,000 regional councillor's office costs is only necessary if there is no official functional interface with the municipal staff, which the mayors provide.

As far as I can tell, aside from the minister, the people who seem to favour the mayors' exclusion are, of course, the mayor of Ottawa, whom the press has identified as having "huge costs, policing and infrastructure problems"; Minister Gigantes, who—I quote the press now—"exploded when the mayor issue was raised and was ecstatic when Bill 77 was progressed"; and one of my local councillors, who is a failed MPP candidate, who was an aide to the first Gigantes ministerial incarnation; and some of the press, again mostly foreign to my community. I am still astounded by the incredible logic leap of a ministry director, quoted in the press, who equated regional attendance records, all within the rules, with reasons for mayors' exclusion from regional council.

**Education Act changes:** It's just a surprise to me, but curious, that the school board study contained more school board analysis than Kirby did on regional policing, yet avoided amalgamation.

Finally, sir, I would like to make my recommendations on Bill 143. I believe the process used has such a degree of unstructured and inconsistent documentation to raise serious doubts as to its integrity. The strange route of the amendments, the inflexibility and time compression would lead me to the conclusion that there has been a de facto will to circumvent the Legislature. If the press

release was near contempt, then, as I've said before, this has to be contempt plus.

I doubt that there is sufficient systemic ability to withdraw Bill 143. Therefore, I would recommend, as a minimum, inclusion of the mayors in article 5, and if it'll help anybody, put it on a five-year trial; exclusion of Kanata from article 32.2, thus allowing for local choice on policing: contract OPP, regional, whatever is chosen; re-examination of the regional policing feasibility factors; and finally to re-examine all education fact-finder recommendations. I thank you for your patience and time, sir.

**Mr David Johnson:** Thank you, Mr Gruber. That's quite a lineup of support that you've outlined for Bill 143. I don't know what to say other than—

**Mr Gruber:** How do you spell "support"?

**Mr David Johnson:** I think your comments are bang on. I think there was a political agenda behind this and it has been driven through, and the opposition parties sort of behind the scenes have been tried to be levered into supporting it before having heard the public deputations. Now we're hearing the public deputations.

On the first page you've said that it seems to have obscured the problem to be solved. What in your view is the problem that needs to be solved today?

**Mr Gruber:** What is the problem today or the problem with Bill 143? My problem is with Bill 143. I don't know what problem it's trying to solve. I do not know what the problem is that they're trying to solve with 143.

**Mr David Johnson:** Is there a problem to be solved?

**Mr Gruber:** Not in my view.

**Mr White:** Mr Gruber, you've brought up a couple of points in terms of the introduction of Bill 77. Mine will simply be a statement, which is simply that the revised Bill 143 does take into account many of the recommendations of the Colter commission in regard to policing, particularly the longer time frame that's implemented with this changed bill. The longer planning time frame allows for the coordination of police services and the implementation of those regulations over a much longer period. That's a direct reflection of the Colter commission that my friends from Niagara are concerned about.

Also, the Bourns task force in fact did not report back before Bill 77's introduction. The report date here is November 2, and Bill 77 of course was introduced some four months prior to that. That's why 143 includes the Bourns recommendations.

**Mrs O'Neill:** Mr Gruber, you're certainly an informed voter, and I thank you for the chronology that you presented, because it's very accurate. You haven't put the final chapter in there that we did have closure on second reading as well, many of our members who wanted to speak not being able to speak even at that stage, let alone at third reading.

1050

My question to you is about the school boards and I find this—well, I've used very strong words in this area because it is very extraordinary to open the Education Act and throw a major change in education into an act



such as this. It's not been done as I know it. If you think there's a reason, what's the reason for that in your mind, and do you realize how hard that is for the francophones in this region to deal with?

**Mr Gruber:** I really have no opinion because I have not studied the Education Act. My concern with it was what appeared to be the random inclusion. I have no particular brief one way or the other way with the good or the bad. I accept your argument on face value. Could I make one suggestion?

**The Chair:** Certainly.

**Mr Gruber:** I respect Mr White's indication of what's now in Bill 143. My question is how it got there, because the only way that it could have got there was those two amendments, which were generated, to the best of my knowledge, which I saw at public meetings here, by the regional staff. They withdrew it. So all of a sudden we have an immaculate conception into Bill 143 of these, regionally generated and never discussed or approved.

**Mrs O'Neill:** Thank you for bringing that forward.

**The Chair:** Thank you very much, Mr Gruber. The committee appreciates your taking the opportunity to appear before us this morning.

DAVID BARTLETT

**Mr David Bartlett:** Mr Chairman, I have a short statement, which I think will take about 10 minutes, and then I'm obviously open to questions.

This is kind of a significant occasion for me because eight years ago I was involved in the, frankly, not-so-immaculate conception of the legislation which is now before your committee and, from where I sit, as you'll understand, it seems to have been a long gestation period.

My name is David Bartlett and, for the record, I held elected office for 20 years in what is now Ottawa-Carleton. For 12 of these years I was a member of the council of Rideau township and for seven of them I was mayor of Rideau and a member of the regional council.

I was never a full-time politician. My income that mattered came directly or indirectly from the federal government, where I was employed in a professional capacity for something over 30 years and enjoyed it. My employers were sympathetic to what I'm sure they regarded as my municipal aberration and willingly accepted that I worked to deadlines rather than working to hours. It would be nice if we all had bosses like that, but mine were really very good.

It was hard work, but this arrangement served me and my employer and the upper- and lower-tier governments, I think, pretty well. It follows that, apart from the regional chair and the mayors of the major municipalities, I do not think that elected municipal officials should serve full-time.

At about the same time as my voluntary retirement from the public service, my neighbours retired me from elected office as well. In retrospect, they did me a favour and themselves too. I don't think I was a bad mayor, but I had really been around too long and didn't have the sense to quit.

Some months later, Ben Grandmaître, who's here as a member of your committee—he was then the Ontario Minister of Municipal Affairs and my former colleague on the regional council—invited me to undertake a review of regional government in Ottawa-Carleton, and this I was glad to do. It was a very, very interesting and instructive 18 months.

From the beginning, there were two presuppositions that guided my work. They weren't in the terms of reference, but I was quite clear about them in public meetings and they appear in my phase 1 report.

First of all, I didn't realistically expect an early or necessarily even a favourable response to my recommendations. By that time, I had been around government for close to 40 years and I had some idea of how they work and how fast they were not going to be. On the other hand, I thought that anything I could do that would take some of the mystery and mythology out of the public perceptions of the regional government would be worthwhile.

It was in this context that I went about the job. I attached, and still attach, more weight to the research and the analysis in my report than I do to the detail of the recommendations, some of which have been overtaken by events and time and some which may have been wrong.

The faculty of public administration at Carleton University, under the leadership of Katherine Graham, agreed to direct the research, and I think they did a super job. Looking over it eight years later, it's reassuring that the research studies and I think the analysis which we jointly made—I made with the research team—has stood up really very well.

Most of the provisions of the legislation which is before you are fully consistent with the thrust of my analysis. So I appear fundamentally in support of the substance of Bill 143. I know nothing about the process. I haven't followed the debates in the Legislature at all. But as far as the substance is concerned, I hope that you will give it a good report. In this context, I make no comment whatever about the education side of the bill because I have no competence in that area at all. My opinions would be pooling the ignorance that the previous speaker mentioned.

Secondly, in preparing the reports, I wanted to put forward recommendations and conclusions which would appear realistic in the political climate of 1986. Ten years earlier, with much more time and resources, Professor Henry Mayo had embarked on a similar study of local government in Ottawa-Carleton and his report was perceptive and clever and well researched and even amusing, but it dropped like a stone because politically it was just too far out to fly and nothing has been heard of it since.

This didn't strike me as a very productive way to proceed, and I decided to water the wine and moderate my formal recommendations into something that I thought would be useful to, at that time, Minister Grandmaître. I must say, in case there's any misunderstanding, that I received absolutely no instruction, guidance, advice, leaning on or other interference from the minister. I had to phone him once to untangle a

bureaucratic snarl having to do with pay and office space. Other than that, he stayed right away, and I give him credit for that.

**Mr David Johnson:** He wasn't interested, eh?

**Mr Bartlett:** It's in this context of being politically and popularly acceptable and realistic that my recommendation to retain the local mayors on regional council should be seen. Eight years ago the notion that any regional councillors be directly elected was radical. I expected that my recommendation that they be directly elected would be resisted, as indeed it was, by local councillors from Ottawa, Nepean, Gloucester and Vanier who served at that time and still serve *ex officio* on the regional council. Frankly, I concluded that if the local mayors were also viscerally opposed, the recommendation would have no chance of acceptance, and so it came out as it did. Better half a loaf than no bread.

If I were making the recommendation today, I think that public opinion has changed to the point where you no longer have to compromise the principle of direct election in order to effect the reform. A number of factors probably influenced this change in public opinion. As far as I know, we don't have any polling data on it, so some of the people in elective office and others will disagree about the extent of the shift. I think it's there.

The bitter resentment caused in some circles by the imposition of regional government in 1969 has pretty well receded into history. Young people really don't much care about old insults. Believe me, the people who were active in 1969 in the Carleton county context felt themselves grossly insulted and they will never forgive or forget, but they're getting pretty old.

The population of the city of Ottawa, which was about two thirds of the regional total when the first RMOC act was passed, is now down to around 45% and falling. So the perceived risk of political domination by the big, bad politicians in the big, bad city steadily loses credibility. Perhaps most significantly, I think there's now widespread recognition that the whole region is a functioning economic and sociodemographic unit with its own requirements and priorities which are of a different order than those of the local municipalities.

When I was doing the review, I came across the satellite imagery of Ottawa-Carleton, and I may have shown it to some of the members of the committee in earlier discussions. You can see the population density. You can get a pretty good idea of land use. You can see how the transportation systems work, but you cannot even guess at where the lower-tier municipal boundaries might be. They're an artificial construct in this context. They have some historical validity, but they're simply not in the region as a functioning economic unit. They're just not meaningful.

We're even more of a functioning economic unit, incidentally, than the regional municipalities in southern Ontario, where the economies of the adjoining regions tend to overlap. Apart from the Ottawa-Outaouais linkage there's no overlap on the Ontario side with any other significant municipality at all.

I am not, incidentally, a proponent of one-tier govern-

ment. I think there are a lot of municipal issues which are of great concern and importance at the neighbourhood level, which have no significance whatever beyond it. Things like local parks and recreation, minor roads and sidewalks, animal control and the administration of the Drainage Act—God help us if urban politicians ever get involved in the Drainage Act. I don't know whether any of you worked on it, but it's the most arcane piece of legislation that ever came down the pike. The farmers understand it and it's a mystery to everybody else. This sort of local thing will always be more effectively and sensitively and cheaply handled by very local councils, and I think Bill 143 is right to leave them at the local level.

1100

I'd just say a few words about the regional police force thing. I didn't look into the pros and cons of this eight years ago, partly because a credible study would have exhausted all my time and research budget and partly because at that time I gave the subject low priority as a political non-starter. One of the previous speakers actually quoted the report on that point.

To the best of my knowledge, no serious research has yet been undertaken. Graham Kirby's advisers produced some numbers on the back of an envelope for him and these showed that costs would rise significantly, but Mr Kirby would be the first to confirm that no in-depth study was made at that time. At present, therefore, regionalizing the police force can be justified only as an article of faith, and it's hard to argue over articles of faith. This particular one doesn't appear in my political prayer book, but I'm known as a bit of a heretic anyway and I could certainly be wrong. I have no grounds to feel strongly either way.

There are one or two things you can say with some assurance. It's a pretty reliable rule of thumb in public administration that there is no practical upper limit to the economies of scale in capital-intensive services. As the size increases, the unit costs should continue to drop for things like power generation and water and sewer systems and transit ways and that kind of thing—generation, at least.

On the other hand, for labour-intensive services, like social welfare administration, schools, universities and the police, unfortunately any economies of large scale are rapidly overtaken by the increasing costs of supervision and accountability and control. This is what the economists and management theoreticians call system complexity. There's no doubt in my mind that a regional force will be substantially more expensive than the present arrangements, and that was Mr Kirby's back-of-the-envelope conclusion. And that's the bad news.

The good news is that a regional force might be more effective, albeit more costly. There is something to be said for common systems and standards across the whole metropolitan area so that things like radio wavelengths are compatible and one police car can talk to another police car.

In addition, a larger single force might be able to provide more advanced specialized services to deal with drugs or white-collar crime or terrorism or whatever.



Yesterday's news carried a report that the RCMP are closing their Ottawa forensic lab. Forensic services for local forces are, in any event, deplorably slow. They talked about six months to get a report back. Perhaps a regional force could afford its own lab, though this would be beyond the reach of any of the present small local forces. The example might be unrealistic. I'm not an expert in police work; I offer it only as an illustration of the sort of thing that might be useful.

In summary, then, it may well be that in 1996 the public will be prepared to pay much more money for better policing. Again, I'm not an expert, but they currently seem not very happy with the frequency of assaults and robberies and other transgressions that we read about in the daily press.

Finally, a last short word. May I take advantage of everybody's indulgence to squash a rumour which surprised me the other day? I was told that I was planning to stand for the regional council. This is absolutely untrue. I hung up my skates and gave away the keys to the penalty box nine years ago and I would have to be mad to get back in the game. All old warhorses sometimes flicker a little when the bugles blow, but I'm not going into the fight. I acknowledge I may sometimes be wrong, but I don't admit to being crazy. I have no ulterior motive for my presentation to the committee.

I could babble on all morning about regional government, but I think it would probably be better if I opened to questions.

**Mr White:** Thank you very much, Mr Bartlett. You went over, to some degree, your involvement under the auspices of the then Minister of Municipal Affairs, the honourable Monsieur Grandmaitre, and why your report did not include the removal of mayors as automatic members of regional council. You were saying that you clearly believe it would be better to do that and you've explained your reasons behind that.

At the time when you were commissioned, the time you were doing your study, were the ideas of direct election, of representation by population and the kinds of things you're saying you now endorse, including the mayors not automatically being on regional council—were those ideas current, were they proposed to you, were they in common knowledge in the area?

**Mr Bartlett:** There was a good deal of concern with the perceived imbalance on regional council, that is, the extreme difference between the mayor of Ottawa representing at that time about 300,000 people and me representing 10,000. Leave Rockcliffe out of it, because that's an exceptional case. There was concern among some of us, although I don't know how wide the public concern was, that what you did on regional council really didn't matter in electoral terms; that is, you stood or fell entirely on your service as an alderman or your service as a mayor.

I worked hard on regional council, but I am convinced it didn't swing 50 votes for or against at election time. Yet even then the region was spending a billion dollars a year, so it seemed to be too important for that. Some of us talked about the benefits of direct election. It wasn't a foreign idea, but it certainly hadn't entered into any sort

of conventional wisdom at that time.

**Mr Dalton McGuinty (Ottawa South):** It's good to see you here, Mr Bartlett, in the flesh, so to speak. You have achieved mythic proportions, whether you know it or not. You've been oft quoted in these debates, on both sides of the fence.

I'm sitting here in opposition and I occupy a rather unique position because I intend to support Bill 143. I'll be supporting it because the people to whom I look for advice and guidance with respect to local issues—my mayor, councillors, police chief, board of trade—support Bill 143, so I feel an obligation to support it.

I want to ask you more about this issue of whether our municipal councillors and regional councillors ought to be full-time or part-time. You will understand that under the terms of this bill and under the construct of the new municipal wards, some of those wards will have up to and over 40,000 people. I represent about 70,000 people. Where are we going to draw the line in terms of who should be full-time and who should be part-time?

**Mr Bartlett:** It's interesting that just last week—I've been away from this subject doing other things for quite a while—I was invited to do a little brief for the citizens committee appointed by the regional government to advise on exactly this point. I'd be glad to pass on a copy of the brief if it is of interest.

In substance, I think the real problem is with who pays for election campaigns. Leaving that aside for the moment, it seems to me that service on regional council should take about 15 hours a week—five hours in meeting and 10 hours on paperwork—and that is within the limits of a part-time job.

My own view is it should be regarded as voluntary and that people should get a pretty generous allowance for expenses, including the money to pay somebody to paint your house and look after your kids and tend your garden, which you haven't got time to do yourself, but that it should be regarded as volunteer service, just like service on the board of the children's aid society or the Boy Scouts or whatever.

The real problem with these large constituencies is going to be, how do you pay for elections? When I was active, I didn't accept campaign contributions. I thought that put me in a conflict-of-interest situation and I simply paid for the cost out of my municipal stipend. I could run a campaign for \$3,000 or \$4,000, so that was possible. But in the new, larger wards, it's going to take at least \$15,000 and probably a good deal more to mount a credible campaign, for reasons that are too long-drawn-out to get into here, and where that money is going to come from, I don't know.

If you're going to say members should be able to campaign independently of outside support, you're going to have to pay a substantial salary or honorarium or allowance or something. If, on the other hand, you say, "You'll have to raise the money from somewhere," I think you're going to see political parties in regional government, because I don't think there's any other way you can do it without putting yourself in the pockets of somebody who's going to want to call the shots.



**Mr David Johnson:** Thank you, Mr Bartlett, for an excellent presentation. You clearly brought to us, for example, on the policing issue—I think you've clarified, and I agree with you 100%, that the costs will go up, there's no question. You've said that the economies of scale will be overtaken by the extra administrative costs of a broader police force. You say there may be additional benefits to be accrued, but clearly the costs will be substantially up.

1110

In terms of the mayors, I'm not clear exactly where you're coming from. You now apparently support direct election. That's not inconsistent, though, in my view, with the mayors serving on the regional council. Certainly in Metropolitan Toronto there's direct election, but the mayors serve on the regional council, and in other jurisdictions the same thing happens. I would ask you (a) for clarification of that: Yes, you support direct election, but cannot the mayors serve on at the same time and bring the local influence, the local linkage?

And (b) you've also admitted that you've been away from this for some time. The original study was done with a great deal of rigour and analysis. Now you've freely admitted that there's no information you're really basing your current advice on with regard to the representation, so how should we treat the advice you're about to give us right now vis-à-vis your well-thought-out and researched initial study?

**Mr Bartlett:** In my view, the logic of the situation is that the regional councils should all be directly elected and accountable to the people for their regional service only. If I might put it flippantly, I see no more case to put the mayors on regional council than I do to put Peter Clark in the provincial cabinet. It's two different functions. As I explained earlier, I felt earlier that that was too radical a change to make eight years ago in the political climate of the time. The case was there, but it just wouldn't go down politically.

Retaining the mayors on regional council was a recognition of the fact that historically they'd been there right back into the county council days and it would be a less radical shift—the first bite of a cherry, if you like—to combine the mayors with the directly elected councillors. It really was a purely pragmatic thing.

There is a sort of case to be made, which I haven't heard made in the press discussion and so on. I'll make it, because there's a balance in here. If the mayors are on regional council, the case for having them there is that they will represent the municipal corporations, not the electors, because the electors can be represented by their directly elected councillors. There is in some areas a case, for example in a common approach to labour negotiations, where perhaps the municipal corporation could usefully use a voice at the regional council table, and a voice that was out in public and not in the back rooms; that can't be handled by officials. I'm not persuaded by that argument but I concede that it has some merit. But if there is an argument, that's where it is.

**The Vice-Chair:** Mr Bartlett, thank you for your presentation this morning.

TIM COLE

**Mr Tim Cole:** My name is Tim Cole. I represent no lobby group or elected body. I have never held public office. I hope to God I never do. I'll leave that to you gentlemen and ladies.

Seriously speaking, my major reason for attending is not to bring vast, learned knowledge but simply to speak as a taxpayer and a citizen and a member of a municipality. Over the last years, like a lot of people, I have felt rather battered by an endless stream of committees and an endless stream of political representatives. I think I speak for a lot of people who lack the background who feel we have very little impact on the decisions that affect our everyday lives. What I can say is what I am: I am a student of history by interest, and what I see happening here has happened through history too many times.

I was struck by a comment Mr Bartlett made—so I'm going a little off my topic—of looking down on a satellite imagery shot and not being able to see the municipal boundaries. I've heard that comment numerous times before. One can also not see latitude and longitude lines, but they're none the less important. You can't see country boundaries, and you need only look at the world and discover that there are 100,000 people fighting and dying over them. The fact that you can't see them from space, with all due respect to Mr Bartlett, I'm not sure is a compelling argument either.

I don't want to speak to the education angles. I think everybody has said that. I'm no expert on it. I have my own feelings about the boards that I'm afraid are based more on prejudice and anger and trying to figure out where in hell I'm going to find the money to pay the tax burden, so I'm not even going to discuss it. If you'll pardon me, I'd really rather avoid it because I'm not that well informed about it.

Most of my background on this comes from Bill 77, which Bill 143, I gather, has encompassed to some degree. What I wish to speak to are simply the changes to the local region and what I see as a trend that I'd rather, if not oppose, because I don't believe in opposition for that sake, but merely modify it with an eye to what the common folks of the town feel we need.

As far as regional police forces go, I have such mixed feelings. On one hand I do agree with economies of scale, and while I spent very little time working for the RCMP as a civilian member, I spent enough time to get an idea of the kinds of economies that you require for large scales, things like forensics labs and identification labs. In that sense, yes, perhaps amalgamation may make sense. I think it has to be traded off against the excessive costs of administration. As crazy as it sounds, that leads into my major thrust on the structure of the region.

I am truly afraid that no matter how noble the aims, a separate region will turn into nothing more than a fourth level of government. In a time when we're struggling mightily to pay for our existing three levels of government, not even counting the National Capital Commission, I question the wisdom or the validity of coming up with a structure that will almost inevitably expand to an additional level.

I know that's not the intent now; it rarely has been. But historically, bureaucratic institutions expand. I read one very tongue-in-cheek comment that described bureaucracies as living organisms: They live, they breed and they reproduce. I'm not sure at this point that we shouldn't try to institute birth control. All right, I'm being flippant, and I do apologize. Well, not really.

But my point is that bureaucratic structures, by their nature, have a tendency to expand, and that is something that one has to be very much aware of and very concerned about in the creation of a large, supermunicipal agency.

One has to ask where the dividing lines are between the municipalities and the region. Already it's become an incredible maze to try to get anything done. I wanted to toss at you just one trivial little problem. My dog happens to be an extremely efficient killer, alas, and when she managed to kill a rabbit on my property, I had a minor problem: What do I do with the carcass? It took me no less than eight phone calls to get rid of that bleeding dead rabbit, and what I ended up doing was I talked to a road crew. He said, "Well, we can't pick it up off your property, but I tell you what: If you throw it out in the street, I can pick it up."

1120

But of course, I couldn't throw it in the street because that was a violation of another bylaw, so I had to put it in a bag marked "Dead Rabbit," and the guy came by and picked it up and said, "Oh, a rabbit," and threw it in the back of his truck, and I said, "This is ridiculous." He said, "Yeah, but don't get me in"—nasty word that we shouldn't say here—"with my boss."

This is what we've got now with one and a half levels of regional government, municipalities and regions. It's already a maze, and I'm terrified that that's going to happen with a separate region.

The issue of direct responsibility has always been one that's been part and parcel of the country. Representative government, responsible government is the fundamental makeup of what made Canada and to a lesser extent the United States, but I'm not necessarily convinced that having a whole separate set of elected representatives from wards which do not recapitulate municipal boundaries will serve us.

The model that I'd really like to at least have the commission consider, and I know there's little consideration that you can put in at this point, but I would really like to consider more an agency that coordinates the actions of municipalities, because that, throughout the country, is what we're missing, coordination of activities. We have a massive duplication of services between federal and provincial levels, and we're developing the same problem municipally.

Really the model that I would see is one of a coordinating agency, and while in the past a centralized government has been essential, you now have one major weapon that we did not have even 10 years ago, and that is the advance of information technologies to bind groups and to bind agencies.

For that reason, I would really like to destress the

power of a regional government and instead remove it to the level of a coordinating agency. I know that's not in the cards, and for political reasons that I'm sure you understand better than I do, I'm not sure that's ever going to happen, but I do want to make my statement clear. It's the same problem in miniature with the school boards. Nobody wants to give up fiefdoms, nobody wants to give up their power. And it's not anything evil, and it's not anything nasty, and it's not a whole bunch of nasty-minded little people huddling in their offices saying, "Oh, dear, I'm going to lose my power," because it's a lot of well-meaning people who are trying to do the best for their constituents.

I would like to see mayors have some role in the new regional government. If nothing else, at least to be able to establish links between the municipalities and the region, because I do fear that with a region totally and separately elected, it will inevitably diverge, and we will inevitably end up with yet another maze of regulation.

I have very little concrete to base this on. As I said earlier, I'm speaking purely as a member of the great unwashed. But I do think it's important that people like myself speak to you, because I think what's happened with us for many years is that a lot of people did just like I did: We went to work, and we said, "Well, we'll leave it to the guys that know how to do it." We went out every few years and we voted for somebody and said: "Whew, boy, that takes care of that one. Now I can go and I can read the paper and curse at the radio for the next four years."

I would really like to convince a few more people like myself to try to take a little more active role, even if it's an active role that's not based on vast learning. It's an experiment for me, and I trust I'm not wasting your time, but I do appreciate the opportunity to come and speak to you as somebody who has no party affiliations, no affiliations with any interest group, but just somebody sitting there looking at the tax bill and just wondering how in the heck I get a pothole fixed.

That pretty much is it.

**Mrs O'Neill:** Mr Cole, it's interesting that you would come in your perspective of historian. I think that's what you said you were.

**Mr Cole:** Amateur.

**Mrs O'Neill:** That's somewhat my background. I think you're very accurate in your assessment of this as a fourth level of government. I think many of us have already determined that. I'd like to ask you many questions, but the one I will ask you is, how do you feel about the way in which the decision has been made, the process? You said you are representing no one other than yourself. I know you were here this morning; you've been here listening to several of the presentations. Do you feel the decision has been made from within Ottawa-Carleton or not?

**Mr Cole:** I do not feel it has been made within Ottawa-Carleton. Right or wrong, my impression is that this decision has been made in Queen's Park. We have heard it in the House, the comments from Mr Rae and Mr Philip and Ms Gigantes. We have seen it stated outright:



"Bill 143 will be passed by the end of April, period."

Maybe that's not the intent, but certainly that's the feeling I get. The feeling I get is largely, "We know what's better for you; now go away." Whether that's the feeling you want to give, I don't know; that's the feeling I get; that's the feeling the folks I have coffee with and shoot the breeze get. And right and wrong, perception is often as important as reality.

**Mrs O'Neill:** Thank you for coming forward and speaking on behalf of those people.

**Mr Daigeler:** Also, thank you for appearing and giving us your viewpoint. I think you reflect that ambivalence that's out there: On the one hand, people would like to have less government—it's the in thing. These days, it's the in thing: less government.

But frankly, and I said that yesterday, certainly in the Ottawa-Carleton area, we've had lots of governments but I feel they've done a good job. For the most part of it, you know, you look around and I like what we see. And perhaps the governments that have been there were, perhaps not 100%, but to a good degree, responsible for that. So, something has worked.

Perhaps we should make some adjustments and obviously we want to reduce costs; there's no question about it. But at the same time, to throw out the baby with the bathwater I think overlooks the fact that what—I'm proud of living in this area because I think it works well. It's achieved, in comparison to many other areas, a lot.

So I am saying, what really is so seriously wrong that we have to go to something totally different? Let's make some adjustments, but let's not throw the baby out with the bathwater.

**Mr Cole:** Do you know, I agree with you? I'm an engineer by training and I've watched a lot of projects where it's: "Oh my God, it's failed. Throw it all out and fire the engineers and get new ones." I don't advocate a total overhaul. Yes, we have done a lot that has worked extremely well. But, I think it's also a mistake to assume that simply because something has worked for many, many years, it shall continue to work without change.

The whole aim here has to be to allow the systems to change as the requirements change. Many of the parliamentary systems that we have now came from—I'm afraid I'm falling into my tendency to lecture again. Pardon me. But many of the parliamentary systems we have now came from a period of low population density and, quite frankly, widespread ignorance and widespread illiteracy. And that has changed now. If nothing else, the vast rate at which information passes has made a huge change in it. So now you have a group of electorate that are bombarded with a tremendous amount of information but do not necessarily have the time or the inclination to process it.

Yes, we have done a lot that is good and a lot that is admirable. I don't have any truck with the policy that says, "It's all a crock." Because the fact that we can get by and drive down here in the morning and see you, says that we've got a lot that's working well.

**Mr David Johnson:** Mr Cole, thank you for your deputation. I can tell you that there are other people

across this province of Ontario who are talking about regional government becoming more of a coordinating agency. So it's not just yourself. There are other people who are looking at this perhaps as a model for eliminating regional government.

What bothers me is that we hear a person with the background and experience of the previous speaker, Mr Bartlett, and I'm sorry he's not here, saying there's no more rationale for the mayors being on the regional council than Peter Clark being on the provincial government. That goes right back to your point about, we're starting to recognize four levels of government. What he's really saying is that the local government is one level, the region is another level, and the province. They're all distinct levels.

The last time I looked, the regional government is a municipal government, as are local governments. They're both municipal governments.

**Mr Cole:** It's not quite the same.

**Mr David Johnson:** Your point that governments naturally live, breathe and reproduce: from my experience, if you establish a new, distinct level of government without the linkages, a regional government, it will expand, it will look for more power, it will look for more authority and the cost will go up.

**Mr Cole:** And it's natural, not evil.

**Mr David Johnson:** Yes, you're right.

**Mr Cole:** Actually, I would like to see more linkages between municipalities and regions with the provincial government. And now we have the option to do that without the expense of bringing in an additional representative, because I know the information superhighway is a buzzword and, speaking as an engineer, it makes me mildly ill, but there is the method to get those links now, where we can do it, and we can get a lot of links from plain, ordinary people. Granted, Bill Clinton's note in the Internet, whitehouse.gov, is not working well, but the concept can work, and I would like to see more ties just to keep the coordination so we're not tripping over our feet and we're not wasting a lot of money.

1130

Mr Daigeler's point is well taken and I thoroughly agree, we've done well, but now we have the ability to put tighter and tighter links so that we're not tripping over ourselves and wasting a lot of effort and a lot of money. That's my whole point for being here and I really thank your indulgence.

**Mr Gary Wilson:** Thank you, Mr Cole, for your presentation. I found it very interesting, although, I must say, I got the impression that you're a bit more innocent than your response to Ms O'Neill's question when I think she said thanks for coming down and speaking for all those people who are sitting in the coffee shops. You didn't really dwell on that at all to say, "This is something that I've discussed with my colleagues and we are all"—you came back with some, I thought, rather more, say, philosophical viewpoints.

Anyway, I just want to ask you about the coordinating committee, to say that there are some problems with the way that would work, as you could probably recognize—



**Mr Cole:** Oh, yes, definitely.

**Mr Gary Wilson:** —and the previous speaker, Mr Bartlett, mentioning participation of direct democracy in voting for the regional councillors would provide that coordinating committee with some authority, and I think this is the question and just how well they are attuned to the issues in the wards that they'd represent. You'd have that kind of very direct, I would think, participation between the citizens in the wards with their councillors. So I'm just wondering what you think of that as being the coordinating committee with the authority that you wouldn't get necessarily with just a coordinating committee which would have to coordinate other bodies.

**Mr Cole:** You have indeed hit the crux of the problem in that a coordinating committee without authority is virtually useless and powerless, and that's been the problem all around, everywhere in the world. The problem I see with separate regional councillors is that the theory is that they represent their constituents, but in practice I do not see that there is a direct representation of elected representatives representing constituents, largely because the situation has changed now. It's no longer a case of a small, interested group of people feeding their viewpoints into their own speaker, and I'm not certain that that will act as a coordinating body. My fear is that it will act as a separate body.

I know that my comments may sound more philosophical. I can't quite represent other people because I don't claim to represent them. They may come out and beat me over the head and say, "Cole, you idiot, I love this." So I have very little to say to you that's concrete. I, as much as anything, want to give the feeling of a taxpayer trying to make a living.

**The Vice-Chair:** Mr Cole, thank you for taking the time and presenting to this committee.

BRIAN COBURN

**Mr Brian Coburn:** My name is Brian Coburn. I'm the mayor of the township of Cumberland and I'm also a taxpayer in the region of Ottawa-Carleton. Thank you very much for this opportunity. I wanted to share with you some of the comments that I've heard since this entire process started, and I don't think all of them can be put down on paper to reflect the true feeling and the sentiment of some of the taxpayers of Ottawa-Carleton. I was just listening briefly to a couple of the presenters this morning.

We have a situation in Ottawa-Carleton where it runs reasonably well, and I don't think you can point anywhere in the free world where it runs perfectly. If you keep that in mind and you keep the comments of our residents throughout Ottawa-Carleton when this process first started, they said yes, if it makes sense and it's affordable, please change, but don't make change just for the sake of making change. I think the reference to breathing and health and growth is very appropriate. This isn't an opportunity to create more jobs; it is an exercise to improve the ability of the taxpayer to communicate with those of us who are in legislative authority to implement their wishes and to satisfy their needs in our community.

Now, I am sure and I hope the committee has access to all of the comments that have been sent to the minister from our public, from community associations. No? Well, I think that's of paramount importance if you don't have that. It's of paramount importance that you damn well do.

**Mr David Johnson:** Freedom of information. We can't get them.

**Mr Daigeler:** The minister won't give it to us.

**Mr Coburn:** You have community associations across this region who represent the public who have their thumb on the heartbeat of a community. And each municipality has its own unique characteristics throughout the municipality.

Similarly, as a duly formed corporation with the region of Ottawa-Carleton, Cumberland represents one of 11 municipalities that is a corporation and is a partner in what goes on in the region of Ottawa-Carleton. And if you liken that to anything else in our society in terms of structure, usually the head of that corporation is at the table when decisions are made, or at least to be able to bring to that table the comments and the sentiments of the people whom they're representing.

I, as mayor of Cumberland, am no different. I'm the chief executive officer of the corporation of Cumberland township and I expect to be able to be heard at the table where the decisions are being made, nothing less. The people I have talked to—and they're not hundreds of thousands; they're hundreds of people—over the last couple of months since this final proposed solution has been presented have told me—and these are the people who don't understand what we do as legislators. But I'll tell you, they're people who are trying to protect their pockets and they're people who have confidence and trust in me as the mayor. I'm elected at large in the township of Cumberland, as are 11 other people in this region. We're elected at large to represent the views of our corporation and our people, along with decisions made by our local councils, and I take those decisions and directions to the regional table.

I don't know how many of you or how many at Queen's Park have walked the walk. I don't know how many of you have been municipal politicians. And I fully understand that at Queen's Park in some areas you'd like to see local municipalities disappear, because they're nothing but a pain in the backside. You want to get rid of 820 snivelling municipalities so you can replace them with maybe 15 or 20 regions across this great province. The people don't want that, folks. They don't want it.

It's ironic that we have a solution in front of us that removes the decision-making process further from the public. If we're listening, on the news day after day after day the public is saying: "We want public meetings. We want you to be more open. We want to be able to contribute." How in the world can they contribute and be part of the decision-making process if it's a squeeze to not have the head of their corporation there when the decisions are being made? Kind of ironic; sadly ironic.

Our system works. It doesn't work perfectly, but it works reasonably well. There are pieces of this legislation that are good and economies of scale that are of benefit

to our residents in Ottawa-Carleton.

Our council has made a presentation to the minister. They were supported by council and I won't elaborate on those but rather the gut feeling that I hear out on the street. In my former life, and maybe my future life within six months; I don't know—today I'm the mayor and in six months, and that's a very real thing—I was a truck driver, nothing more and nothing less, struggling to try to make ends meet. You know, in this world you're born, you get a bit of an education, you go through life and then you die. And what are you trying to do in between the time when you're born? You just try to make ends meet and get through this and try to make it better.

I might be accused that I'm here simply because of financial concerns in terms of the mayor being on regional council, and I would say that's a very shallow reason for people to hang their hat on and say the mayors are parochial, because I may not be here in six months. And do you think I'm going to sit here and argue for 25Gs or 20Gs for somebody else? I'm here arguing because of the principle of bringing our views of our residents to the decision-making process.

I have no problem with direct election of regional councillors, but mayors, in my view, should sit at the regional table, throughout our country. Whether you're on unemployment, it doesn't matter what your status is in life, you mention "mayor" in Cumberland, they don't all know Coburn is the mayor, nor do they really care, but I'll tell you that when they've got a problem the name that's synonymous with everybody is the mayor. When they call the mayor, they expect to be able to get some solutions, or at least to get some direction, and not be fumbled off to some other department. Whether it's Coburn who is here or whoever is the mayor of Cumberland, this position represents the views of Cumberland township.

**1140**

Another thing I'd like to point out to you is that throughout the region of Ottawa-Carleton—this isn't unique; it's across the province, it's across the country—people move and live in specific areas for specific reasons, whether it's access to education or whether it's transportation, things that satisfy them in that form or whatever, or just the general *déjà vu* of a community. That's what makes us so unique here. Cumberland isn't the same as Kanata or Nepean or Rideau. We have some similarities. Our taxes might be a little more and our services might be a little more than some others. But they pick their communities throughout Ottawa-Carleton to live in because that's the quality of life they have agreed to pay for and enjoy.

In keeping with that, they expect to have that community interwoven with senior levels of government. Anything you do, whether at it's the regional level or the provincial level, is interwoven with what happens in our communities.

If you want to get rid of municipalities and just deal with community associations, and I kind of suspect that's where all this is headed, then you would get rid of municipalities. But you didn't. You have 11 municipalities in Ottawa-Carleton that are corporations and, I

reiterate this, should be at the table where decisions are being made, or there should be representation of those mayors, whether it be five or six or something. There has to be a process where the mayors' views are enabled to be enunciated during the decision-making process.

I just want to touch on the fact that it's tradition again. The word "mayor" has been part of our history that everybody identifies with, folks, everybody. To me, when I speak to people throughout our community, they seem to accuse us—I'm talking of us collectively, all those who are in legislative positions—of not being in touch with what's happening out on the street. We're not rubbing shoulders and sometimes we make decisions because we're caught up in what we're doing.

The former presenter touched on that very well, "You're just struggling along and you pay the bills and, Jeez, I expect to get some action for that." If you remove the decision-making process another step away from it, it makes it that much more difficult to get a rabbit even picked up off a road allowance, never mind off the guy's property, just to get it off the road allowance.

I'm not going to burden you. I don't have any paper. These are just some gut feelings that I got from a lot of, not only our residents but from other people across the region as well. I am really surprised, and I find it mind-boggling, that this committee would not have access to the hundreds of submissions that probably thousands of residents have given to the minister over this period explaining their views and their position. I don't know how in the world you can make a recommendation based on two and a half days of 20-minute presentations, limited to 40 or so people, and come to some commonsense conclusion. That just escapes me.

**Mr David Johnson:** Thank you, Mr Mayor, for your deputation. You certainly bring a great deal of credibility to this hearing. I must say that some of your colleagues are here and I think Al Bouwers, in particular, has been here every minute over the last two days and other mayors have been here on and off. It certainly shows the intense interest in this topic.

I found very interesting your opinion that the hidden agenda here may be the disappearance of the municipalities and that the municipalities are a pain in the backside for the provincial government. I think that's very real. I think that's so, because municipalities, being so close to the people, reflect the real wishes of the people; the mayor in particular, but the council reflects the real wishes of the people. Sometimes that's not too popular if we have, as a provincial government, policies or philosophies that we would like to get through.

For example, I think of the Bill 120 accessory apartments issue, various housing policies, that sort of thing, that may not be in tune with the majority of people. Municipalities tend to reflect the will of the people and consequently I think there's a conflict. I believe you're very correct that this could well be the hidden agenda behind this whole proposal.

Maybe just in terms of a question to you: I have real concern, from what we've seen here today and yesterday, that there are so many people who are opposed to this structure of government. I'm wondering what the political



environment will be if this is plowed through, if this is forced through, notwithstanding the comments that have been made. I'm just wondering what the political environment is going to be, how the municipalities and the region are going to be able to work. My sense is that we're in for political turmoil in this region over the next number of years.

**Mr Coburn:** It's my view that no doubt after this goes through and you have direct election of regional councillors, I'm sure that, by and large, there'll be very credible people sitting on regional council. However, they are sitting there dealing with their regional issues that have to do with major arterials, sewers, economic development, policing and that kind of thing. The impact of that, though, on the local municipalities, is that they will not have the same feel for the local residents and what's happening there. That will have disappeared.

Then it falls back to the mayor and the local council to lobby the directly elected representatives. It's a genuine concern on the part of our residents that it's one more person you've got to go through to get to a solution. The ones that have spoken to me, in large numbers in our community, have said, "I'd just as soon pick up the phone, call the mayor's office and you handle it."

If you call the mayor's office, then I have to go and lobby, make an appointment, number one—"Take a number, Coburn"—and meet with my regional councillors and find out if my agenda, our residents' agenda, coincides with their agenda, which sometimes it won't because we're cross-boundaries.

It adds another step to the process. This really concerns me and it concerns a lot of residents. We are trying to streamline our operations, not add another step to getting to the solution. You go to Sears; you don't want to go through three people before you get your merchandise and get out of there. You want to go to a one-stop shopping kind of thing in your municipality, and that is elicited then at the regional council table. It's more confusion.

As I said before, the majority of our people have no idea how any of this works. They're just out there paying the bills, just trying to get on with life. When they have a concern, they'd like to be able to get the most direct reply to it, and that comes with a mayor who has a finger on the pulse.

**Mr Gary Wilson:** Thank you very much, Mr Coburn, for your presentation. I certainly found it fascinating for a number of reasons, one of them being that my mother was born and raised in Cumberland—

**Mr Coburn:** Oh, is that right?

**Mr Gary Wilson:** —and she also went to the Ottawa Normal School, as it was called then. I mention these, of course, to show the historical aspect. Her name was Minogue, by the way. There are still some of the Minogue family there.

**Mr Coburn:** There sure are.

**Mr Gary Wilson:** In looking at some of the figures, though, I was amazed to see that the population of Cumberland, which I imagined was a hamlet from mother's accounts of it, was actually around 40,000

people. Then I headed out to Orléans yesterday and found out that a person living in Orléans actually is now living in the township of Cumberland. That amazed me as well. In talking to him about this he said, "Well, these things happen and we're in that township now because changes are made." That, I think, is the essential point, "changes are made." The world changes and we try to adjust to them to make it work better.

**1150**

I think this is the whole purpose of government, to make sure we come up with the services people need, find ways to find out what people want and then provide them and then have an accountability system so that if we're not providing them, we hear about them. This is, I think, what we're trying to do here, to provide regional services on a regional basis, and that's where the direct election of regional councillors comes in.

I'm wondering whether with this historical progression, you don't see some value to having services like, say, police services and sewage services on a regional basis that can be provided with decisions made by regional council.

**Mr Coburn:** There's no question that there are certain services at the regional level, so the region develops in a normal and an orderly fashion, that are best there, but my point that I'm making and that a lot of residents are making is that those decisions are also interwoven with what happens in our community; for example, the decision on a regional road or a development that may fit into a regional plan. That has an impact on our community.

How does that fit with the things we're left to deal with if you're not sitting at the table, where you have the benefit of all the public input at the local level and are able to take that? Regional councillors who are not dealing with that on a day-to-day basis and who are trying to represent maybe three or four communities, as in Orléans, for example: In the Orléans situation, the boundary between the city of Gloucester and Cumberland goes right through the heart of Place d'Orléans. Half of it's in Cumberland, half of it's in Gloucester, which forms the community of Orléans. Half of the residents don't even know where they are. They're in Orléans. They're happy with the environment in Orléans and that is because there is a personal touch to it. They can at least come in, walk in, talk to Mayor Cain, myself, get to the root of the thing and it's dealt with immediately.

**Mr Gary Wilson:** I'm not so sure the—

**The Chair:** Mr Wilson, allow him to conclude his response. We have to move to Mr Grandmaître.

**Mr Coburn:** I guess to answer your question directly, it is important that some of those be at the regional level, but what's very important is that the mayors be at the table, because they bring that wealth of background knowledge that is generated in your community to the regional table. I don't understand the dilemma, because it's not like the 11 mayors have the balance of power, but the important thing is that you bring the message from your community to that table and you're part of the decision.



**Mr Grandmaitre:** Mayor Coburn, I know how passionate you feel about Bill 143, especially the exclusion of the mayors, and I feel the same way you do. Mr Mayor, I want you to look in your crystal ball. Bill 143 is in place; this is 1997. I want you to look in this crystal ball and tell me what will happen to the 10 mayors or the 11 mayors in Ottawa-Carleton.

**Mr Coburn:** If this legislation goes through as proposed where the mayors are excluded, the workload does not decrease, in my opinion, for mayors, because you will still have to be up to date on all the things the region is doing so you can go on and lobby your regional councillors.

**Mr Grandmaitre:** And the feeling in your community as well.

**Mr Coburn:** The feeling in our community is that it's one step closer to removing municipalities completely.

**Mr Daigeler:** Actually, I have to come—I don't really want to do it too much—somewhat to the defence of the government. Frankly, I don't think this initiative is Queen's Park driven; it's Ottawa driven. I think we must realize that. I think we heard that very clearly yesterday from the representatives of the city of Ottawa when they were making their argument.

They happen to have the Minister of Housing who is the member for Ottawa Centre, who was here yesterday, and she has been able to convince her other colleagues to support this thing because they felt, "Well, she speaks for the Ottawa area." Then the minister in the House and in the statement that he made when these hearings began said: "I have the support of the chairman of the Ottawa-Carleton Board of Trade. I have the support of the president of the Federation of Ottawa-Carleton Citizens' Associations." It says "Ottawa-Carleton"; for him, he felt it's the whole region.

That's what we have to address. That's what you have to address. I think it's really Ottawa driven and I'm just wondering why Ottawa—I guess with the exception of Jim Watson, who was here earlier—is so insistent on pushing this through.

**Mr Coburn:** If the Ottawa solution to all the region's problems was so great, then we would have nothing out in the suburban areas. They'd all be living in the intensification and supporting that, all living in downtown Ottawa. That's not the case. They move out to some of the suburban areas to enjoy a quality of life that varies throughout the Ottawa-Carleton area.

Certainly, within the city of Ottawa there are some economies of scale, if you look at it very closely, to go to this form of government with no representation of mayors on it. Because they are in the inner core, I suppose all the services throughout Ottawa-Carleton are driven and are first satisfied within the city of Ottawa before they're satisfied elsewhere in the region.

Who gains probably maybe the most from this, at the expense of the quality of life and access to government in the outlying municipalities that surround the region, and which and by the way are at least half or maybe a little more than half the population of Ottawa-Carleton? They are being ignored. This isn't a city of Ottawa

solution. That's why I have a lot of reservations that I am sharing with you, based on comments that I have heard, that one size does not fit all and just because Ottawa said, "It's wonderful," the rest of the kingdom says, "It's not quite that wonderful and we want to be part of the decision-making process."

**The Chair:** Mayor Coburn, thank you for taking the time to present your views to the committee.

FIONA FAUCHER

**Ms Fiona Faucher:** Good morning. My name is Fiona Faucher. I am the regional councillor for the city of Gloucester. This is my third term as an elected official, my second term on regional council. I was elected at large in the city of Gloucester to sit on regional council, as well as Gloucester city council.

I do not have a written presentation. I received a phone call saying that there had been a cancellation and would I like to fill it, because I had requested earlier to speak to this committee. I just felt it was important to make a few remarks as an elected representative from a city other than Ottawa and to express my support for Bill 143.

My support for Bill 143 comes from a very basic principle that I believe in. I would like to be accountable for the decisions I make around the regional table and I also believe very strongly in representation by population. I think those are very basic tenets of democracy and are the underpinnings of my support for Bill 143.

I am very proud of Ottawa-Carleton. I was unhappy to hear some remarks about the possible removal of the regional level of government in this province. I am very proud of what we've achieved and I have a great deal of respect for my colleagues around the regional council table.

I look at efforts like the Robert O. Pickard Environmental Centre, our secondary treatment plant, which I think came about through the genuine concerted efforts of a strong regional council and is something that we can all be proud of in the Ottawa-Carleton area.

1200

I also look at our social services system, a particular interest of mine. I think we can be very proud of the services that we offer here in Ottawa-Carleton. I sit on the AMO health and social policy committee and I am very aware of what excellent services we provide to the residents of Ottawa-Carleton in those areas.

I don't think the status quo is acceptable. Progression in terms of an evolution of government is necessary. I understand that when the status quo is threatened people become uncomfortable. The key issue in the transition of this bill is going to be an extreme sensitivity on the part of the people who are elected to regional council and the people who are elected to municipal council and the community associations within all the municipalities to make this transition workable and effectable for all the people we represent. That has to be the bottom line: that we give the best government and the best service to the people we represent in the Ottawa-Carleton area.

That's basically all I wanted to say today.

**Mr White:** Thank you very much, Ms Faucher. First off, in terms of the services at the regional level, we

really haven't had a large number of people presenting a regional view of the future and the interlinking of the various municipalities. I'm wondering if you could speak a little bit to those social services, the kinds of programs that I know the regional municipality has initiated in this area and that are, frankly, on the leading edge, very, very much respected throughout the rest of the province.

**Ms Faucher:** I'm sure you don't want me to go into details of that. As I said, I'm very proud of the level of service and the quality of the service that we provide. I think regional council has been very sensitive to the needs of its community. In terms of health and social services, regional council historically has developed an extremely good working relationship with the community that it serves, has listened to what the needs are and has been very flexible in adapting to the very specific needs in this community, and has been very generous.

**Mr White:** You mentioned that you're both a local councillor and a regional councillor. Your views do not necessarily reflect those of your mayor or the council.

**Ms Faucher:** No, those are my views.

**Mr White:** But when you are accountable to your electorate—you're elected at large, which of course creates a great deal of expense—do the questions that are posed to you, the issues that are brought to your attention, tend to be local or regional, in bulk?

**Ms Faucher:** This is my second term as a regional councillor. The first time, I was appointed by my own council to sit on region. My only experience is the last election, where I ran at large.

I feel personally that part of the role of a politician is to educate and communicate with the community, because, as has been mentioned and I'm sure you're all aware, there are low voter turnouts and not a lot of engagement with the voters. I must admit that the issues that were brought to me from the community were local in nature. My speeches to the community during the election process were regional, focusing on regional issues, because that's what I felt I was running for.

**Mr White:** In order to be more clearly accountable at the regional level, despite the good effort that you put forth, being elected at the regional level only would make people aware that's what they're voting for and those are the issues you should be held accountable for.

**Ms Faucher:** Yes. Especially when I look—and I say this will all due respect to all my regional colleagues—at the deliberations on a budget of over \$1 billion and the amount of time and energy and effort that's expended at the political level compared to the amount that's expended at the local level in terms of the dollar amounts, I would hope that direct election would allow us to be and make us much more accountable for the expenditure of those dollars.

**Mr Grandmaître:** Councillor Faucher, in your opening remarks I think the first sentence was, "I will support Bill 143. I want to be accountable." Don't you feel accountable now?

**Ms Faucher:** I feel accountable at the local level, yes. I do not feel as accountable in terms of my role in the expenditure of regional dollars.

**Mr Grandmaître:** Aren't you being elected now as a regional councillor?

**Ms Faucher:** Yes, I am.

**Mr Grandmaître:** You don't feel accountable even at the regional level; you don't feel comfortable?

**Ms Faucher:** I don't feel that the community perceives that the onus is on me for regional decisions as much as they would if it was direct election.

**Mr Grandmaître:** How will Bill 143 make you more accountable?

**Ms Faucher:** I will be elected directly, as I am now.

**Mr Grandmaître:** You're now being elected directly?

**Ms Faucher:** Yes. But the other part of the equation is the people that elect you, and that accountability is a two-way street. I feel that this will provide much more clarity to the voters in this community. They are electing 18 people to deal with regional issues.

**Mr Daigeler:** Quite often it's been said, "Well, we're moving to direct election." I think what we're moving to is exclusive election, because in Nepean, and now in Gloucester as well, we've had direct elections to regional council for a long time. I would say that in Nepean a good many people, not everybody—but I think it's quite well known now that we have three people who run city-wide for the region. They're identified; they identify themselves—in fact, the next presenters identify themselves as Nepean and regional councillors. I think people have a knowledge about that. It took some time.

I understand that in Gloucester you have that system of direct elections to regional council. This is your first term. Am I correct in that? Is this the first term that you have elected your people to the region?

**Ms Faucher:** Oh, the first term in Gloucester, yes. Yes, the first time we had double direct.

**Mr Daigeler:** Before, it was appointed?

**Ms Faucher:** That's right.

**Mr Daigeler:** So I think one could make the argument that obviously it takes a little while until people get used to this new system and identify you as carrying that regional hat as well. I think that would be reasonable to say, wouldn't it?

**Ms Faucher:** Possibly.

**Mr Daigeler:** How many directly elected regional councillors do you have in Gloucester at present?

**Ms Faucher:** Two.

**Mr Daigeler:** Why did the city of Gloucester move to the system of directly electing regional council?

**Ms Faucher:** I believe it was as Bill 143, as a kind of a natural progression. We didn't have a ward system until 1985. We put in a ward system. Everybody was elected at large initially, and the two top vote-getters went to the region. I think it's just part of a natural progression, and I think that's what Bill 143 is too, a progression from double direct to single direct in terms of the regional government.

**Mr Daigeler:** I certainly agree that there is room for accountability. That's why in Nepean we've had direct elections. But do you not feel that by being totally off



your local council and having the mayor off the council as well, this natural link with your community is going to get lost?

**Ms Faucher:** No, sir, I don't. Again, I think I referred to the sensitivity of those in this transition period as being critical. I don't feel I will be in any way alienated from my community nor lose interest in my community, which is the reason I ran in the first place in 1985.

1210

**Mr David Johnson:** I missed most of your deputation. It was very brief. I didn't realize I'd miss it all by just stepping out for a minute. Do you favour the elimination of local municipalities in the municipal structure here within Ottawa-Carleton, municipalities such as Gloucester? Do you favour a one-tier system, ultimately, where the local municipalities are eliminated?

**Ms Faucher:** No, I believe there is a role for both local municipalities and regional government.

**Mr David Johnson:** There have been a couple of suggestions, by various deputants, that there should be a referendum on this issue. If a referendum was held in your municipality today on this issue, do you think there would be support for the bill in its present form? What would happen? Would people support it or oppose it?

**Ms Faucher:** Quite frankly, unless there was a lot of education, I'm not sure. I find it hard to answer that question. I do know that the contacts I have had with the public I represent have indicated, basically, "Please get on with it and do it."

**Mr David Johnson:** In its present form. The reason I ask is because just about all the deputations we're hearing are opposed to it and there have been a lot of letters that have been coming in, although we have a hard time getting them. We can't get them out of the ministry, but indications are that they're overwhelmingly in opposition. But your view is that people still wish to go ahead with it.

In terms of the contact between the regional government and the local government, in my view, it's important to have the mayor on the regional government, to have that linkage and that liaison. You don't share that view.

The experience I've had in my former life, as the mayor of East York, being both on the local government and on the regional government, was that sitting there in the council meetings and hearing what people said on issues was invaluable. Yes, the regional councillor still represented the area that I represented, but he wasn't there at the East York council meetings. Every once in a while, if he was free, he would drop in, but he couldn't be there meeting after meeting. He couldn't be at the committee meetings that East York had. He just couldn't have the same background.

He wasn't there to hear all the deputations, and people will come in, more so. I'm sure from your experience this has happened. They'll come into Gloucester more often than they'll come into the regional government. At least in Metropolitan Toronto, they sure do that. I'm just wondering. At least with my experience, you can't get that kind of linkage or depth of background from a

regional councillor on the local issues to take to the regional level.

**Ms Faucher:** I suppose I will just again refer back to my earlier remarks. I think it's going to take a great deal of sensitivity and effort on behalf of the newly elected people, whether they be regional or local.

**Mr David Johnson:** I think you'd have to attend all the council meetings and all the committee meetings etc.

One of the previous deputations indicated that Coopers and Lybrand, on behalf of the Kirby commission, did a polling and found that there was a satisfaction with the local municipalities of 76% with their efforts and with the regional government of barely over 50%—57% actually. Why do you suppose that regional governments are less popular vis-à-vis their local governments?

**Ms Faucher:** I think it's probably not a great deal of knowledge about what the role of regional government is and what services regional government is providing. That's an area where we have a lot of work to do.

**Mr David Johnson:** There was another study that was referred to as well, and this was one I'm not sure I'd heard of before, Factor Research Group in September of last year. There was a survey that was conducted that indicated that 79% of the respondents favoured having local mayors sit on the regional council. You may not be familiar with that research.

**Ms Faucher:** I'm not.

**Mr David Johnson:** But, in your view, that's not what you're hearing?

**Ms Faucher:** I am not familiar with it; I'm sorry.

**Mr David Johnson:** In terms of your views on the issue, that is just from your personal experience, the mayors not serving on it?

**Ms Faucher:** Yes.

**Mr David Johnson:** That's what you're hearing back. Those are all the questions I have.

**The Chair:** Thank you, Councillor Faucher, for appearing this morning and presenting your views.

DAVID PRATT

**Mr David Pratt:** I'd like to thank you for giving me this opportunity to speak with you today on the subject of Bill 143. I'd also like to state right away, and in the strongest possible terms, my opposition to what I conceive to be this ill-considered and radical restructuring of local government in the Ottawa-Carleton region.

In terms of my experience with local government, I was first elected as a ward councillor in 1988, representing approximately 35,000 constituents. I was subsequently re-elected city-wide in Nepean in 1991 as a Nepean and regional councillor, serving approximately 110,000 constituents.

As one who currently serves at both the local and regional levels, I feel very strongly that this proposed reform initiative will, in both the short and the long term, create a system of local government in the Ottawa-Carleton area which is less accountable, less accessible, less responsive, less efficient, more expensive and more parochial than that which already exists.

I want to emphasize that while I'm speaking for



myself, I know many of the views I hold are shared by my council colleagues and by many of my constituents.

It has been said that a political party with a majority in a parliamentary system can function like a dictatorship, since there are so few institutional restraints on the power of the cabinet and the leader of the government. One of the restraints lies in the voting power of individual members of Parliament who, in my view, have a responsibility to oppose any arbitrary, capricious or ill-considered legislative measure or, at the very least, put forward constructive amendments that will improve it. In my view, Bill 143 is a bill that should be defeated. Failing that, it should be significantly amended.

Personally, I have been, and continue to be, an advocate of reforming the structure of local government in Ottawa-Carleton to better reflect the principle of representation by population. I'm also an advocate of the need for a high degree of communication, cooperation and coordination in areas with a form of two-tier municipal government. In my view, a separately elected regional council will not provide a guarantee of better local government and may indeed result in quite the opposite. While championing certain principles, this legislation has ignored others which are equally important.

As you know, a series of reports have been produced on the subject of restructuring local government in the Ottawa-Carleton area: the Kirby report, the Graham report, the Bartlett report and the Mayo report. Notwithstanding all of these studies, surprisingly few of the recommendations contained in these reports have made it into the bill which is now before the Legislature. In other words, many of the provisions of Bill 143 have never been subjected to serious scrutiny by the public, local government officials or academics. Equally important is the fact that the financial implications of some of these reform measures are completely unknown.

One would think that under these circumstances, where significant change is proposed without there having been previous debate or study, the provincial government would do everything possible to ensure that the proposals received a thorough public airing. Regrettably, in my view, this has not been the case.

As you know, in its previous incarnation as Bill 77, the bill was introduced at the end of July 1993. Local councils had a scant four weeks during the summer to formulate responses. While the bill failed to pass the Legislature before Christmas, the government now appears to be poised to ram it through within the coming weeks.

I must take issue as well with the fact that only two days have been allocated here for hearings in the Ottawa-Carleton area. One cannot help but be left with the impression that these hearings are a sham and that they are merely being held to pay lipservice to the process so that the government can say that it has in fact heard the people.

Personally, I find it regrettable as well that the Minister of Municipal Affairs has refused to come to the Ottawa-Carleton area to meet with the public and local councils. If he had come, I think he would begin to understand the depth of opposition there is to this bill. While the trun-

cated process that has been followed has left many people from this area disillusioned with the government, it's the substance of the bill and what it does to local government in our region that is most troubling.

One of the most serious flaws with Bill 143, in my view, is the removal of the mayors from regional council. In my experience, the mayors perform a very important function as a vital link between the upper and lower tiers. Taking the mayors off regional council will inevitably lead to complaints that the interests of the lower tier are being ignored or overridden by regional government.

Do we really want to set up a system which virtually guarantees continuous squabbling and backbiting between the two levels of government? People are tired of the federal and provincial governments blaming each other for the nation's ills. Do you, as participants in the decision-making process, really feel that the public enjoys this spectacle so much that they are prepared to listen to local politicians blame regional politicians and vice versa? I really don't think so.

#### 1220

Having the mayors on regional council will reduce the possibility of conflict between the upper and lower tiers since it will give them some of the responsibility for ensuring that there is a high degree of political and administrative communication, cooperation and coordination between the two levels.

From my experience with local government, I can tell you what constituents are looking for: accountability, both financial and political, accessibility, responsiveness, cooperation and administrative efficiency. While residents by and large tolerate parochialism, they also understand that it is the enemy of good decision-making. I can say without reservation that the system we have in Nepean measures up very well compared to other municipalities, both inside and outside the RMOC, from the standpoint of reducing parochialism.

Allow me to illustrate my point. As one of three Nepean and regional councillors who is elected across the city of Nepean, I'm not constrained by parochial considerations in voting. In other words, like the mayor, I can vote according to what I perceive to be the best interests of the city at large. We do have three ward councillors whose important function it is to ensure that their wards are not neglected, but their votes are always balanced on council by a majority who can take a wider view because of their larger constituency. In other words, our council has a structural bias against parochialism which results, for the most part, in better decision-making.

As far as accountability is concerned, at the present time Nepean residents have an opportunity to vote for three regional councillors, as well as the mayor and their ward councillor, for a total of five of the existing members of council. The current system places far more political power in the hands of the individual voter and enhances accountability. Under the proposed regime, which pales by comparison, Nepean residents will vote for only one regional representative.

On the question of accessibility, the current system is

far superior to that proposed by Bill 143. At present, a constituent can call or write to their regional councillor on either a local or a regional problem or issue, knowing that the matter can be raised by the elected representative in the appropriate political forum. This one-stop shopping, which has been referred to before, provides the constituent with easy and efficient access to their elected representative and avoids buck-passing and delays in the resolution of problems or the provision of information. Of course, the question of who is responsible for what will become even more complicated, because Bill 143 provides for regional ward boundaries which cross municipal jurisdictions.

The fact that the province through Bill 143 has determined that it will set local ward boundaries is in my view one of the most egregious aspects of this legislation. As I indicated earlier, the election at large of regional councillors provides for a structural bias against parochialism. By creating six new mini-wards within the city of Nepean, the average population of which would be about 19,000 compared to the current average ward populations of 38,000, this bill will introduce an element of parochialism on council hitherto unknown. Only the mayors will be politically responsible to the entire city.

In addition, this legislation suspends the traditional right of local municipalities to set their own ward boundaries. The result is that the boundaries, as proposed, at least in the city of Nepean, make little sense. One ward which is proposed to have a population of 11,000 has little or no growth potential. As well, the provincial government seems to have completely ignored the fact that making massive changes to boundaries takes a considerable amount of staff time and effort. With so little time before the municipal elections, many municipalities are going to have to incur significant costs by hiring outside help to draw up the new ward maps and to create new voters lists.

Cost is also a factor in relation to the new representation scheme. At the present time, the city of Nepean is represented by six councillors, plus the mayor, as I indicated earlier. Bill 143 will produce six local councillors, plus the mayor, two regional councillors elected solely from Nepean, and two other regional councillors elected from wards that cross boundaries with the city of Nepean. Depending on how you count this new representation, it is either two or four more additional politicians just from Nepean. As well, I gather that the additional cost of setting up new offices for regional councillors has been estimated to be somewhere in the vicinity of about \$2.9 million. Is this more cost-effective? Is this more efficient? Is this what the people of Ottawa-Carleton really want? I honestly don't think so.

The aspect of Bill 143 which deals with policing remains a great concern. At a time when the focus of policing right across North America is evolving towards more community-based policing and community-based crime prevention, it is ironic that we in Ottawa-Carleton are about to have a system thrust upon us which, on the face of it, appears to be going in quite the opposite direction, with a more centralized and less community-oriented bureaucracy.

The manner in which Bill 143 is currently drafted will also apportion an unequal burden in terms of the cost of policing within Ottawa-Carleton. The bill provides for a transfer of assets and liabilities of the three existing municipal police forces to the new regional force. However, existing assets from the Ontario Provincial Police which are used for the policing of the other, predominantly rural, municipalities within the region are not transferred. In addition, provincial police officers will be included in the new employment pool for the regional force. So the province is in effect saying, "We'll keep our assets, thank you, but you can have our liabilities."

Notwithstanding the fact that a study done last year by Justice René Marin calculated the cost of creating a new regional force to be in the vicinity of around \$11 million, the provincial government has not committed itself to any transitional funding. At a time when police budgets are strained to the limit, local taxpayers do not want or need this extra transitional cost. Neither do residents in the cities of Ottawa, Nepean or Gloucester want to pick up the added cost of policing previously serviced by the OPP.

There are many other aspects of this bill which are of concern, especially those relating to industrial parks and sewers. As others have pointed out, the provisions relating to industrial parks blatantly contradict the premise of Bill 40, the Community Economic Development Act, which is to "encourage economic development activities on the part of those who best understand what is needed: the communities themselves." It's worth noting as well that the Ottawa-Carleton Economic Development Corp recently passed a motion indicating that economic development should stay with the local municipalities.

With respect to sewers, it's my fervent hope that the province is not about to penalize those municipalities like Nepean that have maintained their infrastructure, so as to subsidize those who have not.

There's a strong undercurrent of feeling in the Ottawa-Carleton area that this bill is designed to create an unworkable system of local government by introducing conflict in a system which currently enjoys a significant amount of cooperation and coordination. While I would like to believe that the government is proceeding on the basis of good faith, I can see nothing in the process that has been pursued or the substance of the reforms which would provide tangible evidence that that is in fact the case.

In closing, I would like to urge all of you to defeat this legislation. Strong local government depends upon communities having the power to set their own priorities. It does not come from the provincial government, or from any particular cabinet minister, for that matter, telling us what they think we need and then setting about to impose it upon us. This bill does not serve the long- or short-term interests of the residents of Ottawa-Carleton and will produce a system of local government that is, and I repeat, less accountable, less accessible, less responsive, less efficient, more expensive and more parochial than that which now exists. It also adds immediate additional costs at a time when the taxpayer is groaning under the tax burden from all levels of government.



To the government members on this committee, I would say that if, in your wisdom, you decide to support this bill, at a very minimum I would urge you to move or support amendments to the legislation which would put the mayors back on regional council, allow local municipalities to set their own ward boundaries, and provide equity for all ratepayers in funding the additional costs for police services. Thank you very much.

**Mrs O'Neill:** Mr Pratt, you've been around local government and studied it long before you became a member, and I know you understand how this municipality has grown to its present state. You're not the first person who's labelled these hearings a sham, nor are these the first set of hearings that have been labelled a sham. Last July I think you were present when the minister came, and on that day even, there was only 15 minutes of questioning permitted, even for elected officials, when we were being told, rather by surprise, that things were going to change quite drastically.

When changes were made in the city of London not so long ago, and the minister was a different minister at that time, even this government decided to send the minister to do the hearings. I find it decidable that the minister has not come to Ottawa-Carleton.

I am very pleased that you pointed out some of the conflicts in this bill: first of all, that Nepean will have more politicians than less as a result, and that there is a conflict between the premise of Bill 40 and this bill. I also feel it's important that you tell us from your perspective why you think this bill is being pushed, why you think it is so important that this bill is being passed by this government, because I think you have an overview and a historical view on the matter.

1230

**Mr Pratt:** Well, it certainly appears as though it's being pushed by the Ottawa member of cabinet, and I'm not sure that that particular member of cabinet really understands or appreciates what municipal government in this area is all about.

In some respects, of course, there are many people in the city of Ottawa who believe that one-tier government is the way to go, without fully realizing what the implications are in terms of the loss of control of setting the local agenda from the standpoint of the whole range of activities that municipalities are involved in. They see one-tier government as a panacea somehow for the ills of local government in the Ottawa-Carleton area. I think the people who are pushing this bill—or the person, as the case may be—really don't understand local government and have an incomplete knowledge of what the long-term implications will be in terms of the fact that it will be less accountable, less responsive and even less efficient.

To use an example, I have some figures here that give an example of the per capita cost per municipality in certain areas. It is really enlightening to see where certain municipalities place a focus, whether it's on planning or development, police services. Some municipalities have decided that policing service is something they want to put a lot of money into, focus a lot of attention on. Other municipalities, for a variety of reasons, but based on their own needs primarily, have decided that in fact those

limited tax dollars can be spent better elsewhere.

Just to sum up in answer to your question, I think there is a really incomplete knowledge of local government in the Ottawa-Carleton area that is pushing this bill without an understanding of what the long-term implications are.

**Mr David Johnson:** Thank you, Councillor, for an excellent brief. It's hard to make any comments in the sense that I agree with so much of it. But just to follow up on the last question, the mayor of Cumberland, who was here just earlier, indicated that in his view the government is intent on eliminating local councils to the one tier because they're a pain in the backside. I translate that to mean that local governments, reflecting the will of the people, don't always agree with the agenda of a government, whether it's an NDP government or, I suppose, some other governments. But perhaps one way to deal with that is to get rid of them and deal with a one-tier government that's a little further removed from the people and maybe a little easier to deal with from a philosophical point of view. Is that a possibility?

**Mr Pratt:** I think it's a very real possibility, and with the structure of government that we're going to be faced with under Bill 143, without the mayors on regional council, you are going to see those conflicts start to crop up. For instance, if a road that's a regional road cannot be widened, for a variety of reasons, there's a real incentive for the local ward councillor to start attacking the regional system or the regional councillor and saying: "They're not doing enough. Regional government is unresponsive to our needs. They don't understand our needs. They sit down on Lisgar Street, and they have absolutely no understanding of what our local needs are."

That problem is resolved right now, at least from the standpoint of Nepean, because we sit on both councils. We understand the constraints that exist on the public purse at both levels. So you don't have that conflict.

**Mr David Johnson:** Which leads me into my second question, constraints on the public purse. I agree with you 100% that people are demanding governments that are more efficient, more effective, less costly; that's the number one thing on the agenda. Perhaps it's been there for some time, but I think it's no more evident than today, right now.

That's maybe why the government supports this, but my suspicion is that to the degree that people support Bill 143, if they do, they somehow have this impression from whatever source that the structure that's being put in place will be more efficient and will be less costly. Personally, I dispute that. But I wonder, is that kind of information being conveyed, obviously not to people in most of the municipalities such as Nepean, for example, but in Ottawa itself? Is there an impression that this government will be more effective and less costly?

**Mr Pratt:** I think it goes right to the process that has been followed in connection with the substance of the bill and how it's worked its way through the process. We have here in front of us, I think, a reform initiative that is being imposed from above, rather than a reform initiative which has been talked about, discussed, studied at the local level and then with the recommendations going from the lower level of government to the provin-



cial government, in this particular case. That's been a real handicap in terms of the level of acceptance you have throughout all the municipalities in terms of it actually meeting the needs of the local residents.

Another point I'd like to make is, how many times have you heard people talk about the political system? One of the comments that comes to mind readily when you hear people talking about politics in a restaurant or a cafe, whatever, is, "Why don't they work together?" That is a question that is going to be asked more and more if this system comes into place, because you are going to have that conflict. It falls back too on the provincial and the municipal levels of government to work together to find a suitable reform package that will meet the needs of the people and is fully understood by the people as well. I hope I've answered your question.

**Mr White:** On page 2, you feel there's an inconsistency between the Kirby report, Graham report, Bartlett report, Mayo report and Bill 143. Mr Bartlett was before us earlier and he said that it was entirely consistent with his report and his understanding of the others. In fact, he fully supported the removal of the mayors from regional council. And he was appointed, I believe, by Mr Grandmaître some time ago.

You talked about cost in terms of the regional government, and Mr Johnson did as well. When this \$2.9-million expense came up at regional council, are you aware of how the regional councillors from Nepean voted on that issue?

**Mr Pratt:** As far as I know, that issue hasn't been decided yet.

**Mr White:** It was voted on, I believe. You're not aware of how that \$2.9-million budget was voted on by your own colleagues at regional council?

**Mr Pratt:** A remuneration review panel has been set up—I've appeared before it, as a matter of fact—and the purpose of that panel is to decide on the level of salary for regional councillors under this new system. Presumably, with that, decisions will be made in connection with whether they'll have one assistant, two assistants or what the structure of the office organization will be. That panel has not reported yet.

**Mr White:** But the \$2.9-million contingency fund, the moneys that have been set aside to accommodate regional councillors, do you know how your colleagues voted on that issue?

**Mr Grandmaître:** On a point of order, Mr Chair.

**Mr Pratt:** I would like to answer the question.

**The Chair:** I'll allow the witness to conclude and then we'll deal with your point of order.

**Mr Pratt:** Offhand, I can't recall how all my colleagues would have voted for it. I may have supported it at the time. However, I think it's somewhat irrelevant to what we're discussing here today, with all respect.

**The Chair:** Thank you very much, Councillor Pratt, for taking the time to present this morning. We appreciate your views.

**Mr Grandmaître:** On a point of order, Mr Chair: Mr White just alluded to the fact that I had appointed—

**Mr Gary Wilson:** Is this a point of order?

**Mr Grandmaître:** Yes it is. If you want to listen to it, it would be appreciated.

Mr White mentioned that when I appointed Mr Bartlett, Mr Bartlett was in favour of removing the mayors from regional council. I say this is false. I want the record to show this. I don't know if he was trying to mislead this committee, but it is false.

**The Chair:** Thank you for correcting the record. Mr White, very briefly.

**Mr White:** Mr Chair, very briefly, Mr Bartlett very clearly stated that he did not put that in his report. He said why he didn't put it in his report. He said that he does currently support the removal of the mayors, though.

**Mr Grandmaître:** Much better.

**Mr White:** He was before us this morning to make those points, Mr Grandmaître.

**The Chair:** I appreciate both of those points of clarification.

1240

PETER HARRIS

VIVIAN GRANT

ANITA O'DONOVAN

**The Chair:** The next witness is Anita O'Donovan.

**Mr Peter Harris:** I'm not Anita.

**The Chair:** You would likely be Peter Harris.

**Mr Peter Harris:** That's right. To my right is Vivian Grant, who is the president of the Dalhousie South Community Association. I have a few sheets here that I'll leave you after I speak, because quite honestly I think I'm going to say everything other than what is on the sheets.

**The Chair:** Who is seated with you?

**Mr Peter Harris:** This is Anita O'Donovan.

I'd like to start off by saying thank you very much for the Toronto weather yesterday. Hopefully, today's weather you'll take back with you.

This is the preliminary notice that I was able to find out about the hearing that was in one of our daily newspapers, this small article here. On Wednesday of this week, from our city clerk's office, we received an electronic mail message. So I must say that I feel somewhat privileged to be here. In fact I don't think I've had such difficulty getting into a place or an organization since I tried to get into Studio 54 in New York. There they have a red velvet barrier, but I would have thought here, with the taxpayers involved, you would make it a point that you have a minimum time period for the public to state their opinions.

At the city of Ottawa, we take considerable pride in our public participation policy. You can have a private entrepreneur who wants to put in a restaurant down on Preston Street, and time is money to him. Despite the fact that he may lose \$20,000 a month, we insist that there be a time that a sign goes up. There's a minimum of 21 days for people to put in their notice, and we live by that.

I must say that, as a person who has been elected and who relies on the input of the public, because they are

my best resource for information, for ideas, for shaping and developing our policy, despite the fact that there was preliminary work done in trying to shape up what you were going to present as a bill, despite that, you know what it's like with trying to get the average person to participate. Until you put something on the table that's concrete and says, "This is what we're going to do," you don't get the reaction.

This is why when Mr Kirby was going throughout Ottawa-Carleton, to the credit of the government, people didn't turn up. You heard from the special-interest groups, which is what you're hearing throughout this hearing. This was a race to the phone: Who can phone their friends. To my astonishment, I had phoned down to the good secretariat of this committee, and I said, "If you're going to give us a day and a half notice, why are you insisting that we fax the appointment?" "Well, Mr Harris, the fact is, it's full anyway."

I'm absolutely shocked. If this is the way things work in Toronto, then you've got to go back and come up with some sort of a change so none of you are put in this type of situation in the future.

Having said that, what is it that the average person in Ottawa-Carleton wants? I think the key question to ask yourself is, is this really necessary? Because, you know, this whole process, in the heart of this whole system, was very introspective. The studies, yes, you're saying, "We had this study and we've had this study for 20 years." Therefore, is that why you're going to implement this, because you've had a lot of studies?

Priorities change; things change. All of last year, all throughout this year, since your term of office, you have said to us, you've been crying the financial blues, the financial stress. We all appreciate that and the position you're in. As a result, there was a controversy surrounding the social contract. There have been the reductions in the health care.

But do you understand how much this is going to cost if we get full-time councillors? You will have 18 councillors. You have to salary them; you have to give them their office. That is going to be at least \$100,000 per person. We do not have a place to put them in the building at Ottawa-Carleton. If it's a bare room, it needs rugs, it needs walls, it needs furniture. We are going to have to take out a loan of \$2 million to supply that, so you're looking at a \$4-million cost.

Is that what the taxpayer in Ottawa-Carleton has been asking you? I have been hearing at the grass-roots level, "Cut back on the taxes; we can't take it any more." The saturation point has been exceeded. People are on the verge, I think, of a tax revolt. Less government, less red tape. You know that. You go through it every day at the provincial government, trying to filter through to get your requests done. Why would you as the government, at this time when the private sector is downsizing, put in a separate new layer?

If you vote for this bill, and I know that there are members of all parties who are going to vote for this bill—

**Mr David Johnson:** No, you don't know that.

**Mr Peter Harris:** —you will be hypocrites. Don't cry the financial blues to us, because you are putting in more government.

The region of Ottawa-Carleton has an AAA credit rating, so things are really wrong, aren't they, at Ottawa-Carleton? You hear so much about accountability, about representation. Here's the agenda for the social services committee. Vivian, if you could pass that through; that's coming up this week. Take a look at the agenda. I just happened to be in the office this morning and there it was.

I've had, within the last two months, two cancellations of committees at the region for this government where everybody says, "Oh my God, a \$900-million budget." It's a \$900-million bookkeeping procedure that goes in and out and you dictate the policies.

You have said to us, "There's no more money for roads"; therefore, at our transportation policy, our big policy is, "We don't have any more money for roads so we're not going to put in any roads this year and we're going to go for public transit." An excellent initiative on the part of the provincial government. What input did I have into that?

The social services department—there is the committee agenda for this week—represents the largest budget department in the region of Ottawa-Carleton. It's \$250 million, just a third of the regional budget. There's the committee agenda.

I know you've had the pressure from the interest groups and that it sounds wonderful. In theory it sounds great, but we can't continue to live theory; we have to have practical government. For you to turn around and say to us that we need more government in Ottawa-Carleton, I'm sorry, but that is not what the public has been telling me. I'll turn this over to Vivian.

**Ms Vivian Grant:** First of all, I would like to say that, because of the short notice, I haven't had the opportunity to speak to the membership of our association, so anything I say here right now is a reflection of my own thoughts. Actually, I didn't really know what Peter was going to say, but what I have to say follows along very nicely, I think.

I want to refer you to a television program I heard last April 8. It was on at 11 o'clock at night and it was a program that was entitled *There Goes Our Money*. The guest speaker at the time was Milton Friedman, a very well known, highly respected economist in the world today. The reason I mention him is that the thrust of his half-hour speech was simply government and people.

He was 83 years old. To see this remarkable man—it was just spellbinding to listen to him. But anyway, he did say that going back to the late 1920s, when the government really became much more prominent, that's where it started. I hate to paraphrase what Mr Friedman said, but I can only give you my own interpretation of what he said. He said that the reason for the current economic crisis that's going on in just about every country in the world is an overgrown bureaucracy. It has just got completely out of hand. He named five specific areas where this has taken place—I'll be very brief—and he



said the answer to this is with the people themselves.

On that, I would like to say that we do, hopefully participating in a—what they call participating in a democracy today—I would like to say to you, members of our provincial Legislature, for heaven's sake, hear the voice of the people. Surely they have a right. Let us not become what Lord Acton had said several centuries ago now, I believe, victims of the tyranny of the majority.

1250

**Ms Anita O'Donovan:** My name is Anita O'Donovan and I have lived in the Centre Town, Glebe, Ottawa South and in Nepean. I currently live in Barrhaven. I've only lived in Ottawa-Carleton.

I want this committee and the Ontario Legislature to know I strongly object to many changes you are proposing. I live in Nepean by choice. I like the system for election of mayor, regional and local councillors exactly as it is. Nepean council is composed of seven members: a mayor, three ward councillors and three regional councillors elected across the entire city. Now I have a direct input into the election of five members of the seven-member city council.

If this bill passes, you will greatly reduce the Nepean councillors' credibility to me. I will have a say in the selection of two members instead of the current five members. For regional council, I currently can vote for four members and the mayor and three regional councillors. You are reducing my democracy from four to one.

With the current system, if I have a question or a problem, I can contact the mayor and one, two or three regional councillors. I have a good choice. They are all accountable to me. I do not have to first figure out if it's my concern, if it's a regional or a local one. If my concern is regional and I want a meeting to discuss this matter, I can currently go to the Nepean city hall and meet with one, two, three or four accountable representatives. Under your system, I can go downtown to Lisgar Street, pay \$8 to \$10 for parking, to meet one accountable representative.

Members of the committee, if you vote for the proposed system, you will be destroying something that is good in favour of something that is inferior and more expensive. This is not progress. This will further erode taxpayers' faith in government.

**Mr David Johnson:** I thank all three deputants. Councillor, I'd just like to correct one little thing. I'm unaware of anybody in the Progressive Conservative Party who will be supporting this bill. Certainly the people who have been involved, such as myself, will not be supporting this bill. If anybody did, it would be a surprise.

The agendas will get bigger if this setup goes through. You can count on it. As one of the previous deputations said, the governments will grow and it'll cost more money. I agree, the message that I'm hearing from the people is the same message that you're hearing, that governments need to be less costly, more efficient and more effective.

What I was trying to convey to the previous councillor who was here is that my sense is that the majority of the

people in the Ottawa-Carleton region do not support this bill, but to the extent that some people do support it, my guess is that many of them somehow feel that this is going to be more effective and less costly, and they'll be disappointed when it turns out to be the reverse.

**Mr Peter Harris:** I think that you haven't heard from the average person and you have not had a public hearing. The bill is here, it's before you, and you haven't given the people a chance to speak on it. So you're not in a position—I've requested the Chair to extend the hearing and to put an ad in the newspaper and have an honest public hearing.

**Mr Gary Wilson:** I regret to say that, unfortunately, in my view, you spent so much time running down the process of getting here, you didn't have much time to get into the issues and now we're really rushed. In fact I just want to make a clarification. Your colleague to the right, Vivian, mentioned that you're the president of an association, but I understand there's an association called the Dalhousie Community Association that is in support of Bill 143. Is that true?

**Ms Grant:** Dalhousie ward is a very, very large ward.

**Mr Gary Wilson:** But is there not an association called Dalhousie Community Association?

**Ms Grant:** Of course, and there are several others as well. There are about five of them. I can tell you the boundaries, if you interested.

**Mr Gary Wilson:** Is there not a large, well-established community association, Dalhousie Community Association that supports this bill?

**Ms Grant:** I have no idea.

**Mr Gary Wilson:** I see. I thought they were on record as saying that they support it, and you on your part suggested that there was some confusion because you're actually associated with a different community association.

**Ms Grant:** The name of our association is the Dalhousie South Residents Association. We have been in operation for the last four years. It's the first time that anyone in this area where I represent has ever belonged to any association. It's just one of the five that's in Dalhousie ward.

**Mr Peter Harris:** Can I comment on the reality of that? At this committee hearing personal contact was made. You would be interested in knowing that the executive assistant to the member of Parliament for Ottawa-Centre was the campaign manager for people that are very much involved with the Dalhousie Community Association. So there are reasons why some people hear about things and others don't.

**Mrs O'Neill:** Mr Harris, I really find it confusing when people tell deputations how they should spend their time. You have suggested that—

**Mr Gary Wilson:** I'm being called a hypocrite.

**Mrs O'Neill:** Well, I have a lot of trouble when deputations are told how to spend their time. I'm sorry.

**Mr Gary Wilson:** Even when you're called a hypocrite.

**The Vice-Chair:** Order, Mr Wilson.



**Mrs O'Neill:** Mr Harris, you've talked about cost quite a bit and about the process. Are there any other parts of Bill 143, because costs are not part of 143, as you know, and the process is in existence whether we like it or not. Could you tell us the two or three things about Bill 143 that you don't like?

**Mr Peter Harris:** If you're going to implement it and you really want to avoid the parochialism that everybody says is one of the main bases for implementing this bill, then by rights you should be electing councillors at large because you are going to end up with the same situation that you have now, with the ward structure, whether it be the city of Ottawa or the region of Ottawa-Carleton where you have the downtown versus the suburbs. That isn't going to change. It'll be the same thing. Quite honestly, I think this is something to be aware of.

I personally think it is an insult to the mayors of the different cities that they're not on representing their people; that's my personal view. The present bill is the present bill, but it's just not good enough. I think I have a completely different reason for opposing this than some of the previous speakers, because I personally think you should be reducing the level of governments in Ottawa-Carleton.

This is why I say, if you're going to do it, for heaven's sake do it properly and take the time to really come up with something. Until you put something concrete on the table, that isn't going to happen. The process doesn't end simply because you've had a few meetings before you present the bill.

**The Vice-Chair:** Ms O'Donovan, Ms Grant and Mr Harris, on behalf of this committee, I'd like to thank you for coming out this afternoon and giving us your presentation.

1300

BRIAN BOURNS

**The Vice-Chair:** I call forward our last presenter for the day, Brian Bourns. You'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you leave a little time for questions and comments.

**Mr Brian Bourns:** I'll be brief and allow a fair bit of time for discussion.

I conducted a study of the structure of boards of education in Ottawa-Carleton on behalf of the Minister of Education. The provisions in the bill relating to the French-language school board are consistent with my recommendations, and I assume there's some relationship between the two.

My study found, quite frankly, that the structure of French-language school boards in Ottawa-Carleton was dysfunctional. There was every effort, I think, in establishing the current Ottawa-Carleton French-language school board to establish something that would work well and efficiently and maximize the opportunities and potentials that existed. In reality, it was optimistic, I think, in how it expected the French-language board would work.

For members of the committee—I don't know how much familiarity you have with the situation—but

currently, essentially, the French-language board is really three entities: a public sector panel, a Catholic sector panel and what's called the plénier or the oversight body which is made up of the two boards—the two panels make up the French-language board. There are a number of compulsory relationships established in the legislation between the two entities, the public and Catholic, and the plénier.

Both entities, the Catholic and the public, have a constitutional right to manage their schools. I didn't question whether that was appropriate or inappropriate or anything else; it's simply a fact and it's certainly one we're not likely to have much influence on. In that context, the current structure simply provided a forum for those two groups, in trying to govern their schools, to wind up in perpetual and unproductive conflict which, to be blunt, is very expensive.

I found, in my study, if the board were to function as it was hoped it would function, it would probably cost about \$900,000 a year less to operate than it does the way it functions at the moment. Similarly, I found that by abolishing the plénier and allowing the two groups to have clear unambiguous authority over the governance of their schools, you could save \$700,000.

We're in a situation, by trying to eliminate duplication, the existing structure has really created triplication resulting in higher costs that can be eliminated by any change in the structure—or, at least, any reasonably likely one.

It's my belief that the proposed structure of establishing two autonomous boards will best meet the constitutional rights of the two communities involved and will do so efficiently and allow them to carry forward.

I also found that particularly the public panel has a terrible financial situation and, to be quite frank, has not been well managed and has not been adequately funded in the past. There's undoubtedly a relationship between the two and there's lots of blame to go around as to how the circumstances evolved. But the fact of the matter is I was concerned in recommending that they become an autonomous body that they still wouldn't be able to function if the financial issue was not addressed.

I was pleased to see the government announcing last week that it appears an accord has been reached with the French-language school board with respect to funding in the future. If that carries forward, and if the changes contained in the legislation today with respect to the French-language boards carry forward and are implemented, I believe we will be in a position, probably for the first time, to have two effective functioning French-language school boards in Ottawa-Carleton and I think it can only improve the educational opportunities available as well as the accountability, really, of those governing bodies to their communities.

I also studied the English-language school boards and I'd be happy to answer any questions with respect to that portion of the study, although it doesn't make up part of the—there's nothing in the legislation that relates to that study. I'll pause at this point and see if the committee has any questions.

**Mr White:** Thank you very much, Mr Bourns, for your willingness to come forth in front of the committee and discuss these important recommendations.

Taking for granted that the legislation as changed includes your recommendations, and I believe that's certainly the intent, they didn't come out of—they weren't immaculately conceived, but rather were a reflection of the advice and recommendations that you offered. What is your opinion in terms of timing? Should this be something that could wait until the turn of the century or 1997?

**Interjection:** It shouldn't be part of the bill.

**Mr Bourns:** My recommendation was that it be done as quickly as possible. I think the situation as it is is wasteful of money and of opportunities and is frustrating both to trustees and the parents and students involved. I don't know what the other options are in terms of how it can be implemented, but I do believe that the earlier it can be accomplished, the better for all involved.

**Mr White:** I'd like to ask a question of staff here. I heard a comment during your response, that it shouldn't be part of the bill. I'm wondering if we could have a comment in regard to whether the previous bill could have been amended to include these recommendations or whether there was a necessity for a new bill.

**Mr John Tomlinson:** Since the previous bill, Bill 77, had really nothing in it about the French-language school board, any attempt to amend that bill by motion would have been out of order. Therefore, if you wanted to include it with what was in that bill, you would have to have redone the bill in the way that it was done.

**Mr Grandmaître:** I think we've proven our point again, that the government wasn't ready with Bill 77 when we were being accused of using delaying tactics in the House to prevent the second reading of Bill 77. I think the parliamentary assistant clearly demonstrated that the government wasn't even ready to include your report in Bill 77.

First of all, Mr Bourns, I want to congratulate you. You had only five months to do a very difficult job, and I think you've succeeded very, very well. But I still claim that your recommendations, the results of your report, should have been introduced in the House as a bill and not included in Bill 143 or Bill 77. I will be forced to vote against your good work and the results of your report for the simple reason that I don't agree with the municipal government decisions that were made. I will be forced to vote against your recommendations.

I want to say publicly that the minister refused to divide the bill into three or four or five parts, because, as you know, it's a very complex bill. We've been accused of using stalling tactics, but I want to tell you that the members of our caucus will be voting against Bill 143. We won't necessarily be voting against your report.

**Mr Bourns:** I appreciate your comments.

**Mr David Johnson:** I thank you, Mr Bourns, as well. The point's been made that we have two important issues here. We have the issue of the municipal structure, which in its own right is a huge issue that should not be included with anything else. There should have been two

separate bills here: one for the issue that you're here to speak to us about today and the other for the municipal restructuring. That's the problem we're facing. It's pitiful, the situation we're put in.

There's been very little meaningful discussion with regard to the important issue that you're bringing forward. Certainly, we would all support any movement that would make our school systems more effective and less costly. You've brought to our attention a \$900,000 cost that perhaps shouldn't have been incurred in one situation and \$700,000 in another case. These are issues that we should come to grips with, but I personally can't support the bill the way it is right now, because of the municipal structure, which I think is not in the best interests of the people in this area.

I don't know if you've seen the presentation. Many of us put a lot of emphasis on what the board of trade says, because it's composed of many good people. The Ottawa-Carleton Board of Trade does not support the amendment that you're hoping we will support. They say we already have too many school boards and we should have fewer school boards, and that's perhaps a view that's shared by other people in the province of Ontario. Even the portion that you're bringing forward to us, I would like to see debated in greater length so I know what all the issues might be, but the main point is that we've got two things that are plunked together and shouldn't be; they each deserve their own debate.

The problem, I think, that we're in here now is the government didn't put priority on this bill last year. It didn't come for debate last year. It's had three days of debate this year. That's it. Now we've got closure. Here we are on a Saturday morning with a limited number of people being given the opportunity to speak to it, virtually nobody has had the opportunity to speak to the French-language school board issue, and the whole thing has to be a sham, and you're caught in the middle of this. I apologize to you for dragging you in maybe even a little further, because I know the message you've got to bring to us is a serious one and it's not being given the debate and review that it deserves.

1310

**Mr Bourns:** If I might, there was certainly extensive public discussion during the study that I conducted last fall, at the conclusion of the study. I believe really the reason that you haven't got a lot of deputation on the issue of the French-language school boards is because there is generally a consensus within the community that this is the appropriate approach to take. It's not substantially a controversial issue.

I'm sure if you get into the English-language school boards, you would have more of a discussion and debate, but at this point, I think with respect to the French-language school boards, virtually all of the community involved has come to the conclusion that this is the appropriate step to take at this time.

*Interjection.*

**Mr David Johnson:** It should've been a separate bill, right.

**Mr Bourns:** I can't help that.



**The Chair:** Mr Bourns, thank you for appearing before the committee this morning.

**Mr McGuinty:** I'd like to move a motion. There has been someone here who has exhibited a very real expression of interest in these hearings. In fact, she's sat here from the very beginning until this point in time and she speaks on behalf of seven community associations. I've had an opportunity to review her brief. It's short, it's to the point, and I think we should give her the opportunity to come forward and speak now. I'd like to move that motion now.

**The Chair:** The motion has been moved. Discussion?

**Mr Mike Cooper (Kitchener-Wilmot):** As Mr McGuinty knows, the subcommittee did meet and we did set up a schedule. We realize that there are a number of other people who did want to present, and because of the time constraints couldn't. We did offer them, through the advertisement, the chance that they could do a written submission, which carries just as much weight to the committee members and to the ministry when they review the final outcome and when we get to clause-by-clause on this. We do have a tight schedule where some of us have to catch our flights to get home, and that's why I would vote against this motion.

*Interjections.*

**The Chair:** Order, please. Continue, Mr Cooper.

**Mr Cooper:** The truth is, we realize there are more people who want to make presentations, and there are people who did contact in different orders, and to have somebody just come in off the floor and say that this person's more important and should beat out somebody else who had contacted us earlier is really unfair to other people who won't have the chance to present.

**Mr David Johnson:** Just to speak on behalf of our caucus, I came down here to listen to the people of Ottawa speak to this issue. My flight isn't for a while yet, and I suspect most people who are flying back to Toronto are on the same flight. I've got time to listen. I'd like to hear what they have to say.

**Mr White:** I appreciate Mr McGuinty's ongoing support for this bill, as he's previously expressed. I'm wondering in terms of the process, though, if he's not aware that he has a representative on the committee that struck the agenda. Did he not approach Mr Grandmaître on this score? Why did Mr Grandmaître not make this motion?

**Mr Grandmaître:** As the representative on the committee, you will recall when the subcommittee met to look at a possible list, we were given a pre-typed list and, for your information, Mr White, we had no additional room on that list—no additional room. I find it very surprising that we've listened to people this morning who were not included on the original list. I'm sure that the clerk or you, Mr Chair, has an answer, but I find it very surprising that some people were added to this list, because a lot of people would like to use five or six minutes to give us their point of view and they're not given this opportunity.

**The Chair:** For the record, Mr Grandmaître, the witnesses who were scheduled were taken in chronological order, and if there were cancellations, replacement speakers were also taken in chronological order as well.

**Mr Grandmaître:** How did Mr Bourns find out about this meeting?

**The Chair:** I have no idea.

**Mr Grandmaître:** Can we ask Mr Bourns?

**Mr Bourns:** I found out about the meeting from Mr Sutherland.

**Mr McGuinty:** Just in response, first of all, to Mr White's questions about somehow the agreement being struck in Toronto, the fact of the matter is that we are now here on the front lines. Regardless of where people stand on this legislation, if we've heard anything, it's that there was very short notice given to the people of Ottawa-Carleton. We've been able to accommodate only very, very few presenters, and regardless of where we stand as individual committee members, if we have one overriding obligation, it's to listen to the people who pay our salaries and put us down at Queen's Park.

I want to say as well that Karen Brown, the woman on whose behalf I'm making this motion, has even volunteered to go down to Toronto at her expense and make a presentation, but there is no room for her there either. I'm just calling for 20 minutes for her to come forward and sit there and make a presentation.

**Mr Daigeler:** Just very briefly, we appreciate the fact that some of the members who are not from this area have to catch a flight. I think the motion doesn't request to extend these hearings till 6 o'clock, even though we would like to. We acknowledge the fact that the government has moved to have this whole thing finished in two weeks. That's the reality that unfortunately we're living under. All this motion says is, hear that one person who is speaking on behalf of seven community associations, and it's another 20 minutes. Is it really that bad? That's all that's being asked with this motion, and I would hope that the government members would support it.

**Interjections:** Recorded vote.

**The Chair:** All those in favour of Mr McGuinty's motion, please indicate.

**Ayes**

Daigeler, Grandmaître, McGuinty, Johnson (Don Mills).

**The Chair:** All those opposed, please indicate.

**Nays**

Cooper, Haeck, Hansen, Wilson (Kingston and The Islands), White.

**The Chair:** The motion is defeated.

**Mr Ron Hansen (Lincoln):** Mr Chair, could we have a copy of that presentation for our files?

**The Chair:** Yes, I believe there have been written submissions presented to the committee. We are therefore adjourned.

The committee adjourned at 1318.





## CONTENTS

Saturday 16 April 1994

<b>Regional Municipality of Ottawa-Carleton and French-language School Boards Statute Law Amendment Act, 1994, Bill 143, <i>Mr Philip</i> / <i>Loi de 1994 modifiant des lois concernant la municipalité régionale d'Ottawa-Carleton et les conseils scolaires de langue française</i>, projet de loi 143, <i>M. Philip</i></b>	
Dale Harley	R-761
Diane Spencer; Marianne Wilkinson	R-764
Al Brown; Jim Watson	R-767
Marion Dewar	R-770
John Gruber	R-773
David Bartlett	R-776
Tim Cole	R-779
Brian Coburn	R-782
Fiona Faucher	R-785
David Pratt	R-787
Peter Harris; Vivian Grant; Anita O'Donovan	R-791
Brian Bourns	R-794

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \*Chair / Président:** Huget, Bob (Sarnia ND)  
**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)  
Conway, Sean G. (Renfrew North/-Nord L)  
Fawcett, Joan M. (Northumberland L)  
**\*Jordan, Leo (Lanark-Renfrew PC)**  
Klopp, Paul (Huron ND)  
Murdock, Sharon (Sudbury ND)  
Offer, Steven (Mississauga North/-Nord L)  
Turnbull, David (York Mills PC)  
Waters, Daniel (Muskoka-Georgian Bay ND)  
**\*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)**  
**\*Wood, Len (Cochrane North/-Nord ND)**

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Daigeler, Hans (Nepean L) for Mr Conway  
Grandmaître, Bernard (Ottawa East/-Est L) for Mrs Fawcett  
Haeck, Christel (St Catharines-Brock ND) for Mr Waters  
Hansen, Ron (Lincoln ND) for Mr Klopp  
Johnson, David (Don Mills PC) for Mr Turnbull  
McGuinty, Dalton (Ottawa South/-Sud L) for Mr Offer  
White, Drummond (Durham Centre ND) for Ms Murdock

### **Also taking part / Autres participants et participantes:**

Barnes, Doug, director, local government policy branch, Ministry of Municipal Affairs  
O'Neill, Yvonne (Ottawa-Rideau)  
Tomlinson, John, senior counsel, legislation branch, Ministry of Education and Training  
White, Drummond, parliamentary assistant to Minister of Municipal Affairs

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** McNaught, Andrew, research officer, Legislative Research Service

C4701  
V213  
-576



R-34

R-34

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 18 April 1994

# Journal des débats (Hansard)

Lundi 18 avril 1994



## Standing committee on resources development

Regional Municipality of Ottawa-Carleton  
and French-Language School Boards  
Statute Law Amendment Act, 1994

## Comité permanent du développement des ressources

Loi de 1994 modifiant des lois  
concernant la municipalité régionale  
d'Ottawa-Carleton et les conseils  
scolaires de langue française

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

*50th anniversary*

*1944–1994*

*50<sup>e</sup> anniversaire*



### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal de débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Monday 18 April 1994

Lundi 18 avril 1994

The committee met at 1606 in room 151.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
AND FRENCH-LANGUAGE SCHOOL BOARDS  
STATUTE LAW AMENDMENT ACT, 1994  
LOI DE 1994 MODIFIANT DES LOIS  
CONCERNANT LA MUNICIPALITÉ RÉGIONALE  
D'OTTAWA-CARLETON ET LES CONSEILS  
SCOLAIRES DE LANGUE FRANÇAISE

Consideration of Bill 143, An Act to amend certain Acts related to The Regional Municipality of Ottawa-Carleton and to amend the Education Act in respect of French-Language School Boards / Projet de loi 143, Loi modifiant certaines lois relatives à la municipalité régionale d'Ottawa-Carleton et la Loi sur l'éducation en ce qui a trait aux conseils scolaires de langue française.

## EMPLOYEES' ASSOCIATION OF OTTAWA-CARLETON

**The Chair (Mr Bob Huget):** The first scheduled witness this afternoon is the Employees' Association of Ottawa-Carleton. Good afternoon, sir, and welcome. You've been allocated 20 minutes for your presentation, and the committee would appreciate a portion of that for questions and answers.

**Mr Gérard Poirier:** Thank you. Good afternoon, Mr Chairperson, all members of the Legislature, ladies and gentlemen. I bring you greetings from Ottawa-Carleton.

I have to apologize for two things. First of all, this submission, which I was guaranteed would be here for 3 o'clock this afternoon, is not here yet, so I hope to give you a copy of it as soon as it comes in. Second of all, I will make my excuses in advance that if I mispronounce a word or two, please bear with me, because when I get nervous, the French comes out.

**Mr Bernard Grandmaître (Ottawa East):** I get the same thing every day.

**M. Gérard Poirier :** Bonjour, Monsieur Grandmaître.

**M. Grandmaître :** Bonjour. Ça va?

**M. Gérard Poirier :** Ça va bien.

As the agenda reflects, my name is Gérard Poirier. I am president of the Employees' Association of Ottawa-Carleton. My presentation will deal strictly with the amendments to Bill 143 which pertain to the French-language school board of Ottawa-Carleton.

The EAOC, which I will refer to from now on as the employees' association, is a certified association under the Ontario Labour Relations Act and is an independent trade union. We represent support staff at three different school boards: the Carleton Roman Catholic Separate School Board, four units of employees; the Renfrew County Roman Catholic Separate School Board, one unit

of employees; the Ottawa-Carleton French-Language School Board, Catholic sector, one unit, formerly two; and the full board, two units—one clerical, one maintenance and caretaking; for a total membership of approximately 1,400 members. Today, I have also been asked to represent some non-unionized employees of the full board.

The French-language school board of Ottawa-Carleton—what is it? I have heard it explained for five years now by different people, and most of the time I get more confused. I have lived with the French-language school board for five years. I believe the correct definition is this one: The French-language school board of Ottawa-Carleton is, in essence, three employers within one. Trustees are elected to the public and Catholic sectors and, when sitting together, become the full board, the conseil plénier.

Some of the responsibilities of the sectors can be transferred to the full board, in accordance with the statute passed to form the board. The powers which accompany these responsibilities can be transferred in whole or in part by both sections to the full board. The full board is also responsible for its own departments, such as caretaking and maintenance.

The EAOC made a presentation to Mr Bourns, the fact-finder, supporting a stronger full board. This submission supported the non-unionized employee groups. We believe in this approach, as our presentation to the Catholic sector of April 28, 1992, will attest, and when you have this little binder, you will have all those in it. We also included in our brief three presentations, appendices 3, 4 and 5, made by our organization in the name of employees to the full board.

As we pointed out in our submission to the fact-finder, we find it extremely ironic that the branch being dismantled is the only one that has had substantial savings in its five years of operation. One figure which will not appear in appendix 6 is a \$300,000 saving for 1993, for a grand total over five years of \$4,291,024. These figures are a matter of record, not figures picked out of the air. As a matter of fact, the EAOC was instrumental in the full board achieving a saving in both 1992 and 1993.

Appendix 7 will show a memo dated January 25, 1993, sent to all employees, asking them to reflect the true amount of annual and sick leave they should have to their credit. Here, the problem was that in the first year of operation of the full board, the records kept for annual and sick leave were non-existent, so some of my members had twice and three times the amount they should have had. A memo was sent out, many meetings were

held by the association, asking people to be honest. The saving of that was \$75,000.

Appendix 8 will show a memo dated November 11, 1993. A similar memo was sent at the same time as the previous one on the subject of unused annual leave. In our collective agreement, you can carry over five days of annual leave from one year to the next. If you have in excess of five days, you are paid for them. We made an arrangement with the full board, with the full cooperation of the association, that for 1992 and 1993 those annual leaves would be carried over to the year after, for a saving in 1992 of \$142,000, for a total saving of \$217,000.

Savings for 1993 are unknown at this time. Be that as it may, we are now faced with two French-language school boards in Ottawa-Carleton: one public, one separate.

The Minister of Education and Training came to Ottawa at the end of February to announce this decision. On that occasion, the employees' association asked the minister two questions: Would the EAOC be part of every step of the process? The answer was yes, absolutely. The second question was, would protection for employees, similar to those contained in Bill 109, form the necessary amendments to dissolve the full board? The answer to that one was yes.

Following this meeting, the EAOC and two non-unionized representatives met with a ministry lawyer and a regional ministry representative. On that occasion, which lasted approximately one hour and 15 minutes, we emphasized the importance of part XIII of the Ottawa-Carleton French-Language School Board Act, in particular section 66, responsibilities of the sector, and section 72, the right to grievance under section 137 of the Education Act, the recourse necessary for employees who were not happy with their lot. I will come back to these sections later.

What were employees promised and guaranteed by their original school board and/or the French-language school board of Ottawa-Carleton? In appendix 9, you will see an excerpt from a speech by Dr William Crossan, the director of education of the CRCSB at that time, talking on Bill 109. Dr Crossan stated, "One thing you should be aware of, however, is that nobody will be losing their jobs, in any way, shape or form." He goes on to say, "There's a guarantee for everybody in that."

You must also refer to appendix 10, which contains form letters sent to all employees who were transferring to the French-language school board advising them of their rights. Please note that the letter was sent not by the sectors but by the French-language school board, which you will recall is essentially the three employers in one.

Appendix 11 will contain a letter from the director of education of the Ottawa Board of Education to an employee, again guaranteeing permanency with the French-language school board and the employee's right of recall at the Ottawa Board of Education.

Appendix 12 and appendix 13 will contain agreements between the sectors and the full board for transfer of employees.

We spare you the 10-inch binder necessary to put all letters, verbal discussions and advertised positions from 1989 to date, all of which promise permanency of employment with the full board. Assurances, guarantees and promises were made to the employees of the full board. They were told the positions were permanent, were for an undetermined length of time and preserved their full employment rights.

Appendix 14 will show newspaper articles on the Supreme Court of Canada decision which holds employers responsible for telling the truth in their hiring of employees.

I ask you to recommend amendments to Bill 143 so that the full board employees employed as of January 1, 1994, be employed and protected by the two new autonomous French-language school boards of Ottawa-Carleton, whose responsibilities these employees really are.

If you are wondering why I don't rely on the employer to do this, the answer is simple: How can I rely on an employer who in 1993, in the middle of a major restructuring of all school boards in Ontario and major budget restraints, granted salary increases to some levels of employees of 3%, to some others at 5% and then gave all other staff a mere 1% economic increase?

The same employer who in late 1993-94 was operating with a deficit of \$8.5 million refused to pay a \$50 course to an employee and the same management could spend \$36 for candy for his desk. It also spent \$406 in taxi fares for transportation of students on extracurricular activities when city busing was readily available. It also spent \$450 for a briefcase for a superintendent.

In closing, two remarks and our recommendations for changes to sections 66 and 72 of the Ottawa-Carleton French-Language School Board Act. My remarks are as follows:

When, where and who will finally make the natural and necessary equation that layoffs equal loss of revenue? That is for school boards as well as any government.

Also, who will finally figure out that to lay off three employees whose salary is \$95,000 each is more economical than to lay off 14 employees at \$21,000? It also creates less of a burden on society and less of a loss of revenue.

Changes to articles 66 and 72 of the Ottawa-Carleton French-Language School Board Act:

(a) Article 66 should be amended to reflect the two new French-language school boards of Ottawa-Carleton responsibilities to the full board employees.

(b) Article 72 should be amended in subarticle 1, fourth line, a change of the verb from "may" to "shall," and subarticle 3 to make all sections, subsections, articles and subarticles of section 137 of the Education Act pertinent to this article.

We urge that these amendments be made applicable to all employees who were employed by the full board as of January 1, 1994. I hope my trip to Toronto to talk to you will bear the fruit of true justice for these employees. I thank you for your patience and your time.



**The Chair:** Thank you. Questions. Mr Grandmaître.  
1620

**M. Grandmaître :** Saviez-vous que vous aviez accès au service d'interprétation, Monsieur Poirier?

**M. Gérard Poirier :** Oui, mais je voulais faire sûr que j'étais entendu dans les deux langues. Ce que j'ai vu jusqu'à date ici, ce n'est pas pour faire une tâche noire, mais ce que j'ai vu, surtout en écoutant la télévision, c'est que la traduction n'est pas la meilleure. Je vous ferai produire une traduction moi-même du document qui va refléter exactement le document.

**M. Grandmaître :** Alors, vous dites que l'interprétation ne reflète pas vraiment le message.

**M. Gérard Poirier :** Non.

**M. Grandmaître :** Vous avez douté, si vous voulez, du système d'interprétation. Is everybody plugged in?

**Ms Sharon Murdock (Sudbury):** It's not translating.

**Mr Grandmaître:** It's not being translated?

**Mr David Johnson (Don Mills):** It was for a while, but when you stopped talking, they stopped translating.

**Mr Grandmaître:** That's a good sign. Catching up here.

Monsieur Poirier, je crois qu'avec la présentation d'aujourd'hui, vous voulez laisser savoir aux membres du comité que même avec une rencontre avec M. Bourns, vous avez encore des inquiétudes concernant la possibilité de la perte d'emplois ?

**M. Gérard Poirier :** Oui, monsieur.

**M. Grandmaître :** Est-ce que vous avez fait parvenir au ministère de l'Éducation vos inquiétudes ?

**M. Gérard Poirier :** Oui, monsieur. J'ai même écrit au ministre de l'Éducation et de la Formation, lui donnant une copie du rapport que j'ai fait à M. Bourns.

**M. Grandmaître :** L'article 66 et l'article 72, où vous voulez apporter des modifications, est-ce que le ministère ou même le ministre y a répondu ?

**M. Gérard Poirier :** Non, monsieur.

**M. Grandmaître :** D'aucune façon ?

**M. Gérard Poirier :** D'aucune façon. Nous avons parlé à un avocat du ministère, un représentant du bureau régional, où on a mis nos inquiétudes. Ce qui est arrivé, c'est le projet de loi 143 qui dit justement d'enlever les articles 66 et 72 de la loi.

**M. Grandmaître :** Naturellement, dans le projet de loi 77, on ne parlait pas de modifications du système scolaire dans Ottawa-Carleton. Par contre, dans le projet de loi 143, même les parlementaires ont été surpris des changements, des changements qui semblent satisfaire la population dans Ottawa-Carleton, mais vous avez des doutes. Vous avez des doutes concernant surtout la perte d'emplois.

Peut-être ma dernière question : si j'ai bien compris, vous voulez avoir la même assurance que la Loi 109 vous offrait lors de la création du fameux conseil de langue française d'Ottawa-Carleton.

**M. Gérard Poirier :** Non seulement ce qui était dans la Loi, mais tout ce qui s'est passé entre-temps, ce qui s'est passé dans les conseils d'origine. La plupart des

gens ont été promis, ont été donnés assurance, ont été donnés garantie que la position qu'ils avaient avec le conseil français était permanente.

**M. Grandmaître :** Était permanente?

**M. Gérard Poirier :** Oui.

**M. Grandmaître :** Et aujourd'hui vous avez des doutes pour la simple raison que ce n'est pas inclus dans le projet de loi 143.

**M. Gérard Poirier :** Dans la loi. Si je peux, Monsieur Grandmaître, je peux vous dire que j'ai eu un coup de téléphone vendredi passé, même j'en ai eu deux, ce qui est quelque chose en dehors de l'ordinaire, parce que d'habitude les téléphones se font un à un. J'ai eu deux appels-conférence, un du conseil plénier et un de la section catholique, vendredi. Ils savaient tous les deux que je venais ici pour vous lire ceci. Ils ne savaient pas ce qui était dedans, mais ils savaient que je venais vous le présenter. J'ai été dit par le directeur général du conseil plénier qu'on parle de mises à pied de cinq personnes dans l'entretien et de moins deux — non, excusez — plus de deux dans la conciergerie.

**M. Grandmaître :** Monsieur le Président, me permettez-vous une question à l'adjoint parlementaire ?

**The Chair:** Very, very quickly.

**M. Grandmaître :** Monsieur l'adjoint, êtes-vous au courant des inquiétudes de l'association des employés ?

**M. Drummond White (Durham-Centre) :** Oui, et j'ai ici la lettre de M. Philip et celle de M. Poirier. La lettre n'est pas — il a un vrai problème parce que la Loi 109 est nié...

**M. Grandmaître :** N'existe plus ?

**M. White :** ...n'existe plus maintenant. Mais il veut avoir des assurances. M. Tomlinson peut les donner.

**M. Grandmaître :** Est-ce que M. Tomlinson peut répondre à cette question-là ? Quelle assurance a l'association des employés ?

**M. John Tomlinson :** Si vous permettez, Monsieur Grandmaître, je veux m'exprimer en anglais pour m'assurer que ce sera clair.

**M. Grandmaître :** Parfait.

**Mr Tomlinson:** I have spoken with the minister's office and one basic concern, I think, that may have existed was that the present Ottawa-Carleton French-Language School Board Act gives certain specific rights to employees at the board. Our bill will provide for repealing that act.

However, the section in our bill that repeals it does not come into force on royal assent. It will only come into force at a later date when it's proclaimed into force by the Lieutenant Governor. The reason for that is that if the bill is passed in its present form, a regulation would be done. The regulation would provide for continuing those rights that employees had under specific provisions of the act. If they still had them at the date of dissolution of the existing board, then those rights would be continued over to the new boards, for those employees at the new boards.

**Mr Grandmaître:** So they will be part of the new regulations.

**Mr White:** It's our intention at this moment to offer on the public record our assurances, both from our ministry and from the Ministry of Education and Training, that those rights will continue. Although they may not be specified in Bill 143, we can certainly offer that assurance now on the record to M. Poirier.

**Mr Tomlinson:** However, I'd like to clarify for Mr Poirier that that relates to specific rights given by the present bill, such as the existing section 64, which talks about seniority rights, and which I believe that perhaps your employees no longer have under that section but have under collective agreements.

But if there are other sections in the present act which give specific rights that your employees would have at the date of dissolution, the regulation would continue those rights over. Now, that doesn't deal with the problems that you raised about promises being made about certain things and so on.

**Mr Gérard Poirier:** Mr Chairman, could I pose a question?

**The Chair:** Go ahead, sir.

**Mr Gérard Poirier:** Sir, the problem is—you just stated it—"at dissolution." Right now, I just told you, the two sectors are getting ready to cut, and that's what the problem is. They will do it before dissolution. That is what the problem is.

**Mr David Johnson:** Maybe just following up on that, then, and I don't know who can answer the question so I'll throw it out: Mr Poirier, thank you for your deputation. You're indicating that the present boards are looking at cutting right today, before the dissolution.

**Mr Gérard Poirier:** Yes, sir.

**Mr David Johnson:** But I understand that somewhere in the present act there is some—you led me to believe that there was some notice of job security or some aspect of job security. So how is it that under the present act, if there is job security, they can cut while the present act—

**Mr Gérard Poirier:** Sir, I've been asking myself that question for five years.

**Mr David Johnson:** Is there any response from this? Are you aware of the act as it exists today: Is there security, as Mr Poirier thinks there is security, and can indeed the boards that are involved cut at this point in time?

**Mr Tomlinson:** Mr Johnson, what I can tell you is that I am aware of certain types of rights given under that act that relate to seniority and to recall.

**Mr David Johnson:** Well, we're talking about job security here.

1630

**Mr Tomlinson:** Yes, but as far as a provision in there guaranteeing a job for a certain length of time, I'm not aware of one. Now, Mr Poirier may be able to point one out, or maybe he has something referred to in the—

**Mr David Johnson:** I guess it's back to you, Mr Poirier. Is there a section in the present act that would indicate that there is job security and that they can't cut anybody?

**Mr Gérard Poirier:** Not in the present act, sir. The

promises and the guarantees were made through letters, and as I stated before, the letterhead is the Ottawa-Carleton French-Language School Board, and that in essence to us means the three employers in one.

**Mr David Johnson:** I see.

**Mr Gérard Poirier:** Verbal guarantees were made, assurances were made, because at the time they wanted to make sure that the proper amount of employees would transfer, because everybody did have a right under Bill 109 for recall at their original school board. That recall does not exist any more.

**Mr David Johnson:** Those letters are dated roughly when? What time frame are we talking about? Is it this year, last year?

**Mr Gérard Poirier:** They date back to spring or summer of 1988, because officially the French-language school board started operating January 1, 1989, but in essence they really took over on September 1, 1989.

**Mr David Johnson:** Can I ask you, before I run out of time, that's obviously the major problem for you.

**Mr Gérard Poirier:** Yes, it is.

**Mr David Johnson:** And I can understand why. Beyond that, if that problem is resolved, and the government, through the parliamentary assistant, has indicated that it has given a certain commitment, although apparently the commitment that it's given doesn't extend for the full time frame that you're concerned about, so there's still a problem there and I'm not sure what the answer to it is right at this instant, but beyond that issue, if that issue did get resolved to your satisfaction, then what would your position be with regard to Bill 143 at that point?

**Mr Gérard Poirier:** To tell you the truth, I'd be happy as a lark, and that's simply from the heart, because I am one of those employees from an original school board. I am a carpenter by trade. I am a caretaker by profession. I was one of the ones who was asked if I wanted to go with the French-language school board. I did not want to. I was happy where I was. But seeing some of my friends, some of my colleagues, going there, and now all of a sudden, their jobs, there's a huge question mark.

I feel that's unfair, because I was given the same promises, the same guarantees, as these people were, and that to me is not right. There has to be a sense of justice somewhere. I mean, all kinds of promises were made to these people, all kinds of guarantees, and all of a sudden, it's not worth the paper it was written on.

**The Chair:** Mr White, do you have any questions of Mr Poirier at this point?

**Mr White:** Thank you very much, Mr Poirier. It is an honour to have you here, to have you come all this way to make that presentation.

**Mr Gérard Poirier:** It was a pleasure, sir.

**Mr White:** I hope that the assurances we've been able to offer you in terms of continuing seniority will offer you some level of assurance.

**Mr Gérard Poirier:** Thank you.

**The Chair:** Thank you very much, sir.



ASSOCIATION DES ENSEIGNANTES  
ET DES ENSEIGNANTS FRANCO-ONTARIENS

**M. Ronald Robert :** Permettez-moi de me présenter. Mon nom c'est Ronald Robert. Je suis le président de l'Association des enseignantes et des enseignants franco-ontariens, l'AEFO. Près de moi, j'ai un de nos cadres à l'AEFO, M. Raymond Vaillancourt, qui est du secteur des relations de travail dans notre association.

Vous avez reçu notre mémoire, je crois. Même s'il n'est pas volumineux, je voudrais quand même bien vous dire — on vous le passe, alors je vais attendre un instant. Est-ce que la traduction est bonne, Bernard ?

*Interjection.*

**Mr David Johnson:** What station are you on?

**M. Robert :** Alors, comme je disais, même si notre document n'est pas tellement volumineux, il demeure qu'il y a des points essentiels et des points importants. Vous devez réaliser, premièrement, que l'Association des enseignantes et des enseignants franco-ontariens représente 7000 membres dans la province de l'Ontario, des enseignantes et des enseignants qui oeuvrent aux paliers élémentaire et secondaire dans les écoles de langue française.

Cette projet de loi 143, vient toucher directement près de 22 % de nos membres, c'est-à-dire 1700 membres approximativement de la région d'Ottawa-Carleton.

Je voudrais premièrement vous dire que c'est un peu avec regret que nous venons aujourd'hui voir la fin du conseil de langue française, une expérience qui aurait pu, peut-être, répondre aux besoins des Franco-Ontariens et Franco-Ontariennes, mais qui malheureusement n'a pas rencontré les résultats escomptés.

Cependant, vous avez choisi d'abolir la Loi 109 et de la remplacer par le projet de loi 143, et ce projet de loi fait des inquiétudes pour nous. Nous voulons nous assurer aujourd'hui, par notre présence, que vous allez tenter de donner des garanties à nos enseignantes et nos enseignants qui sont affectés.

Toute une série de protections et garanties prévues dans la Loi existante disparaissent. Permettez-moi d'en citer quelques-unes :

- les paragraphes 59(1) et (2), où nous parlons du statut des enseignantes et des enseignants désignés ;

- le paragraphe 59(9), où nous parlons de la responsabilité de l'employeur à maintenir les contrats d'enseignement des enseignantes et des enseignants ;

- le paragraphe 59(10), le droit à un poste essentiellement semblable ;

- l'article 64, la protection de l'ancienneté et les droits prioritaires à tout poste disponible avec cette ancienneté ;

- l'article 66, le maintien des crédits de congés de maladie transférés ;

- l'article 69, où nous parlons des mutations d'employés de la section publique à la section catholique dans le cadre du parachèvement ; et

- l'article 70, qui donne la garantie aux sections locales d'enseignantes et d'enseignants de poursuivre les négociations selon les termes de l'application de la Loi

sur la négociation collective entre conseils scolaires et enseignants.

Cette liste n'est pas exhaustive, mais elle donne un aperçu de ce qui disparaît avec les amendements proposés par le projet de loi 143.

Notre présence devant vous aujourd'hui, dans un premier temps, tente de rassurer les 1700 membres enseignantes et enseignants en intimant qu'un règlement tiendra compte de leurs préoccupations.

Dans un deuxième temps, nous demandons expressément aux membres de votre comité d'obtenir pour nous les réponses aux questions suivantes :

(1) Pouvons-nous être rassurés que les règlements qui seront développés garantiront aux enseignantes et aux enseignants et aux autres employés les mêmes protections et garanties qui leur sont présentement accordées dans la loi existante ?

(2) Pouvons-nous être rassurés que les représentants des enseignantes et des enseignants et des autres employés seront consultés durant le développement des règlements qui remplaceront les garanties légales existantes dans la Loi sur le Conseil scolaire de langue française d'Ottawa-Carleton ?

(3) Pouvons-nous être rassurés que les protections et garanties qui existent dans la présente loi seront maintenues jusqu'à ce que les nouveaux règlements soient mis en application ?

Les membres de notre association ont un attachement profond à cette province et à son système d'éducation en langue française. Nous souhaitons que l'Assemblée législative, tout en abrogeant une Loi qui nous garantissait des droits, saura s'assurer que ces droits seront maintenus sous une autre forme.

Je termine ma présentation en vous implorant de nous poser des questions pour des clarifications.

1640

**Mr David Johnson:** I appreciate your deputation. I think perhaps in view of the questions that you've posed, it might be more fruitful to direct those questions to the staff and see if we can get some answers. How would that be instead?

First of all, does the government agree with the protections that had disappeared? The presenters have detailed a number of clauses in 109 that are no longer in 143. Does the government agree that there's that significant difference?

**Mr White:** Let me state first of all: nous avons trois questions et vous avez un vrai problème avec le processus de consultation. C'est la deuxième question. Pour les autres, je veux écouter M. Tomlinson.

**M. Tomlinson :** Vous avez posé trois questions.

**Mr David Johnson:** I just asked, do you agree with the differences to start with? There's a whole list of differences. I wonder if you would respond to that. For example, subsections 59(1), 59(9), 59(10); there's a whole whacking list. Do you recognize the differences between 109 and 143 to start with? I just want to start from ground level.

**Mr Tomlinson:** Those sections would be repealed.



**Mr David Johnson:** They would be repealed. So at this point there is no comparable protection anywhere else that we can put our finger on.

**Mr Tomlinson:** No.

**Mr White:** Not in law; there will not be a protection in law but there'll be a protection in the regulations and through the regular process, as Mr Tomlinson and I discussed with the previous presenter.

**Mr David Johnson:** So they will be in the regulations. Now we sort of get into the three questions. One of the them was: In the development of the regulations, will you be consulting with the representatives?

**Mr Tomlinson:** They definitely would be and they would have to be because the present Education Act has a provision that requires that affected employee groups be consulted.

**Mr David Johnson:** Could you be specific as to what the consultation process will be, specifically with the group that's before us today?

**Mr Tomlinson:** At this point, my recommendation would be that initially there be a summary of what the basic provisions of the regulation would do and that this summary be circulated to groups such as this one—there would be a number of groups—that responses would come back on that. They would have time to consider that and we would actually go out and meet with them.

From the responses, there would be consideration in the ministry of what the responses were and then it would get more detailed. A rough draft regulation with specific provisions would then go out and again there would be consultation. That would be what I would recommend.

**Mr David Johnson:** In terms of the period of time in between, when Bill 109 disappears and before the resolutions come in place, the question is: Can they be reassured that the present protection that exists today will carry through that period?

**Mr Tomlinson:** Yes. Bill 109 will not disappear before a regulation is done and filed and comes into force. As I mentioned before, the section which would repeal Bill 109 doesn't come into force when the rest of the bill comes into force. It'll only come into force later when the Lieutenant Governor says it's now time for it to come into force, and that time would be after we had our regulation in and in fact the regulation had provided for the dissolution of the existing board, the creation of the new boards and then on that date, that would probably be the repeal. That date or a later date would be the repeal of the act.

**Mr David Johnson:** I guess the final question was really the first question: What can you say with regard to your intention at the present time that the regulations will reflect the same protection that exists today in Bill 109? Is it your intention that this protection, as they've described it, in all of these various clauses that are apparently disappearing—that the regulations will encompass the same protection as exists today?

**Mr Tomlinson:** I'm sorry to give a lengthy answer to your question, Mr Johnson. It's not because I want to, but I think I have to.

There are basically two sets of regs we're talking about here. The one set is those special rights given by part XII of the act. Section 64 is a good example: the seniority rights and the right to have bumping across sectors and so on. If employees have those special rights at the time of the dissolution, it would be intended that any regulation recommended by the Minister of Education has a provision which would ensure that those types of rights be carried on. These are the statutory rights, and these are statutory rights existing as of the date of dissolution and repeal of the act.

When you get to your employment contracts, for example, and your collective agreements, that's a separate set of things. What I can say there is that the standard provisions—for example, standard provisions set out in the Education Act to deal with similar situations—ensure that all employment contracts and collective agreements existing at the time of dissolution of one entity get transferred over to the new entities. It's the same thing with the sick leave benefits, which you've also referred to in one of your sections: They get transferred over into an equivalent plan. That kind of thing would be a standard type of provision to be included.

**Mr White:** I only want to repeat what I said earlier, that you have reason to come forth and to make your concerns known. The issues you're asking for assurance about I can offer you, as has Mr Tomlinson. That is certainly the intent of the government, to respect those seniority rights and the other issues that were articulated in Bill 109 in the past. You certainly have our commitment to that effect in Mr Tomlinson's more careful articulation of that issue.

**M. Robert :** Puis-je poser une question ? Simplement, est-ce qu'on a une petite idée de quand on pourrait nous remettre le premier sommaire de ce que tu as appelé «basic provisions»? Quand est-ce qu'on pourrait voir ce genre de document-là ? Est-ce qu'on a une petite idée ?

**M. Tomlinson :** On n'a pas jugé que ce serait approprié avant que et à moins que la législation soit adoptée. Donc, si le projet de loi est adopté, je dirais peut-être deux semaines après.

**M. Robert :** C'est excellent si c'est dans deux semaines. D'abord, que nous avons la chance ; c'est ce que nous demandons. C'est d'avoir la chance d'examiner les documents, et vous nous avez donné cette assurance aujourd'hui.

**M. Tomlinson :** Oui, vous aurez certainement la chance.

**M. Robert :** Nous sommes satisfaits des réponses que vous nous avez présentées. Nous allons évidemment espérer que nous pourrions travailler étroitement avec vous pour assurer que les droits de nos enseignantes et de nos enseignants soient respectés, ainsi que ceux des autres employés, parce que ce n'est pas facile, ce qu'on demande aux gens de faire. C'est quand même bien un acte de foi qu'on fait.

On a présentement des droits qui sont incorporés dans une loi, et on s'en va vers des règlements ; on sait qu'il y a une différence assez marquée. Par contre, si on nous assure que ce n'est pas l'intention de défavoriser nos

membres, nous serions satisfaits. Évidemment, nous allons regarder de près des sommaires lorsqu'ils arriveront et nous tenterons de vous donner une réaction positive ou négative, dépendant des circonstances.

**M. Grandmaître :** Naturellement, vous représentez les enseignants et les enseignants mais, par contre, vous parlez aussi «d'autres» employés. Pourriez-vous décrire les autres employés ?

**M. Robert :** Pour nous, ce sont des gens comme M. Poirier, il y a les concierges etc. On veut s'assurer que non seulement nos droits soient protégés, mais il ne serait pas de justice de protéger ceux des enseignantes et des enseignants et de traiter les autres employés d'une autre façon. Je ne pense pas que ce soit l'intention. En tout cas, c'est ce qu'on a vu avec la présentation de M. Poirier, les réponses qu'on lui a données, et on s'attend au même traitement pour tous les gens. C'est une question d'équité.

**Mr Grandmaître :** En plus de ça, je crois que vous avez reçu l'assurance du gouvernement que vous serez consultés lors de la préparation des règlements. Je crois que vous avez —

**M. Robert :** C'est ce dont on avait besoin ; nous l'avons reçue et nous pouvons retourner maintenant dire à nos membres que nous avons un bon œil sur la situation. Nous avons reçu des assurances. Ensuite, il y a des textes qui se produisent de nos discours aujourd'hui et de nos pourparlers. Donc, noir sur blanc, on pourra présenter aux gens exactement ce qu'il en est.

**Mr Grandmaître :** Ça va devenir le onzième commandement de Dieu. Merci bien.

**The Chair:** I thank the Franco-Ontarian teachers' association for appearing this afternoon. Mr Daigeler, you've got about 30 seconds, if you want to use it.

**Mr Hans Daigeler (Nepean):** Is that all? Then that's not long enough.

**The Chair:** You don't want to use it?

**Mr Daigeler:** If it's only 30 seconds, no. The answer would have been longer.

**The Chair:** Thank you very much for appearing.

**M. Robert :** C'est nous qui vous remercions. Merci.

**The Chair:** We can recess for, let's say, 10 minutes to wait for the next witness.

*The committee recessed from 1652 to 1701.*

**The Chair:** Rodrigue Landriault was scheduled to be here at 5:30 originally. We have not been able to contact him to confirm that he can attend earlier, so we will stand in recess until 5:30 in the hopes that he'll be here.

*The committee recessed from 1702 to 1734.*

SECTION CATHOLIQUE DU CONSEIL SCOLAIRE  
DE LANGUE FRANÇAISE D'OTTAWA-CARLETON  
OTTAWA-CARLETON FRENCH-LANGUAGE  
SCHOOL BOARD, CATHOLIC SECTOR

**The Chair:** I call the committee to order. Mr. Johnson has indicated that we can start in his absence.

The next witness is the Ottawa-Carleton French-Language School Board, Catholic sector. Welcome.

**M. Rodrigue Landriault :** Merci, Monsieur le

Président. Mon nom est Rodrigue Landriault. Je suis le président de la section catholique du Conseil scolaire de langue française d'Ottawa-Carleton. Je vous remercie de votre patience. Il y a eu beaucoup de difficultés de coordonner l'horaire, mais enfin, on y est.

Pour nous, le projet de loi 143 revêt une très grande importance. C'est une importance toute particulière puisque ça affecte directement notre conseil scolaire. Ce n'est pas seulement au niveau municipal, mais il y a toute une portion qui porte sur le scolaire.

J'aimerais vous donner d'abord quelques statistiques, quelques données sur notre conseil.

Il faut se rappeler que la section catholique est le plus grand conseil scolaire de langue française en Ontario et elle compte parmi les cinq plus importants conseils francophones au Canada. Nous sommes responsables de l'éducation de plus de 16 500 élèves francophones catholiques, inscrits dans 38 écoles élémentaires, cinq écoles secondaires et dans des programmes d'éducation pour adultes. Il faut aussi se rappeler que notre section est régionale, et vous verrez plus loin qu'il y a des implications financières. Nous couvrons tout le territoire de la municipalité régionale d'Ottawa-Carleton.

La section catholique, même si elle est appelée «section» jusqu'à ce que le projet de loi 143 soit adopté, le plus tôt possible, on l'espère, a toutes les attributions, selon la Loi sur l'éducation, d'un conseil scolaire et elle fonctionne comme un conseil scolaire, excepté qu'il y a tout l'aspect du conseil plénier qui doit être corrigé.

Depuis quelques années, les dernières années, particulièrement les derniers mois, nous avons, avec les élèves, les parents et les représentants des associations professionnelles, syndicales et communautaires, repensé notre structure et notre mode de fonctionnement, et nous en sommes venus à la conclusion que la solution était deux conseils séparés pour Ottawa-Carleton. C'est ce que nous avons demandé au ministre de l'Éducation le 22 juin 1993, et nous avons demandé que la création ait lieu si possible le 1<sup>er</sup> janvier 1994. Cette demande a l'avantage de réduire de trois à deux le nombre de structures administratives. Présentement, notre conseil à trois structures administratives. Alors, on les réduirait à deux et ça permettrait des économies substantielles. Nos projections, qui avaient été faites pour l'enquête Bourns, nous démontraient qu'en 1994, si ça avait été mis en application assez tôt, on aurait pu sauver environ 700 000 \$. Ça entre dans l'esprit des demandes du ministre de l'Éducation et de la Formation, qui voudrait réduire le nombre de structures scolaires en Ontario.

Le rapport Bourns est arrivé à la même conclusion et a confirmé, en novembre 1993, que la création de deux conseils scolaires, un pour les écoles publiques et un pour les écoles catholiques, était la solution souhaitable pour Ottawa-Carleton. Et en janvier cette année, le 26 janvier, M. Cooke, ministre de l'Éducation et de la Formation, a accepté cette recommandation. Une des raisons pour lesquelles je me suis déplacé aujourd'hui, c'est que nous considérons qu'il est urgent que le projet de loi soit adopté et que les deux conseils en question soient créés.

D'abord, il y a le problème des employés. Nous voulons minimiser le plus possible l'impact du change-



ment sur les employés qui sont présentement employés par le conseil plénier. Nous avons déjà mis en branle un transfert de compétences à l'intérieur des limites que la loi nous permettait, mais le processus ne peut être complété tant que la loi ne sera pas ajustée. Évidemment, cette période de transition est pénible pour les employés. C'est pourquoi nous appuyons le maintien des articles 56, 57 et 68 et la section de la nouvelle loi qui traite des employés mutés du conseil scolaire.

Il est aussi difficile de cerner les coûts reliés à la dissolution du conseil plénier, mais nous savons que les coûts seront réels et importants. Nous suggérons que le ministre de l'Éducation considère de mettre sur pied une certaine formule de compensation financière pour mettre fin à un conseil scolaire, tout comme la Loi sur l'éducation prévoit des fonds pour la création de conseils scolaires.

1740

Je reviens à l'urgence de l'adoption du projet de loi 143. J'ai parlé tout à l'heure des bénéfices financiers anticipés que nous voudrions bien réaliser, au moins en partie, en 1994. Évidemment, après l'adoption de la loi, le ministre devra, dans les 30 jours, donner suite aux nouveaux pouvoirs que la loi lui confèrera.

Une autre raison de l'urgence, c'est que la transition vers une nouvelle structure serait facilitée si elle se faisait avec les conseillers scolaires qui sont en place jusqu'à l'automne. Ces conseillers-là connaissent le fonctionnement actuel du conseil, et quelques-uns ont même vu la mise sur pied du conseil existant et ont une certaine expérience dans ce domaine. On sait que les élections amènent toutes sortes de résultats qu'on ne peut pas toujours prévoir.

À la fin de mai 1994, et ça c'est le mois prochain, nos deux sections aménageront dans des locaux différents. Le bail de notre siège social prend fin et, si le projet de loi n'est pas adopté avant la fin mai, nous nous verrons dans l'obligation, selon la loi qui continuera d'exister, d'encourir des frais supplémentaires pour loger les services du conseil plénier, tenir des réunions et continuer de faire fonctionner, même à régime réduit, le conseil plénier.

Pour ce qui est du projet de loi lui-même, nous appuyons toutes les modifications qui visent à accroître les responsabilités du ministre de l'Éducation en ce qui a trait au pouvoir de créer des conseils scolaires de langue française. Je pense à la situation à Ottawa-Carleton, et ces amendements en tiennent particulièrement compte puisque nous avons un conseil qui existe mais qui veut modifier sa structure. On sait que c'est difficile d'amener des projets de loi à l'agenda.

Nous apprécions également la plus grande latitude qu'on veut accorder aux conseils scolaires, dans le domaine des zones scolaires, qui nous permettra de fusionner, sans égard aux municipalités, ou à certaines municipalités, des zones dans les villes d'Ottawa, Vanier ou Rockcliffe. Nous sommes aussi soulagés que le projet de loi propose des mesures transitoires pour les élections municipales de 1994. C'est très réaliste et je pense que c'est honnête envers les candidats qui voudront bien se présenter.

Nous déplorons, cependant, le fait que la loi ne comporte aucun amendement visant à modifier le processus de recensement. C'est un processus qui est nettement discriminatoire envers les francophones et envers les catholiques car leurs taxes sont automatiquement dirigées vers les conseils publics anglophones si, par mégarde ou par retard, l'identification n'est pas faite correctement. Dans sa forme actuelle, le recensement est une des causes de la disparité et de l'inéquité entre les revenus dont disposent les conseils scolaires.

Avec la situation économique sérieuse, les répercussions sont maintenant rendues clairement au niveau de l'élève. Ce manque à gagner au niveau de l'assiette d'évaluation résidentielle a un impact négatif sur l'assiette d'évaluation industrielle et commerciale. Chez nous, nous avons estimé que, annuellement, nous perdions 19 millions de dollars à cause de cette situation-là. Évidemment, les salles de classe en souffrent.

Puisque le gouvernement ontarien a annoncé que la réforme du financement de l'éducation était reportée, nous vous demandons de considérer d'ajouter au projet de loi 143 deux amendements. Le premier serait un amendement qui porterait sur la Loi sur l'évaluation foncière :

«Que toute personne recensée soit obligée d'identifier le conseil scolaire auquel elle veut verser ses taxes et que les taxes des personnes qui n'auront pas identifié de conseil scolaire spécifique soient réparties entre les conseils scolaires selon les effectifs scolaires de chacun.»

Également, un amendement à la loi 65 :

«Que la répartition de l'assiette d'évaluation des sociétés ouvertes d'Ottawa-Carleton soit fondée sur les effectifs scolaires de chaque conseil scolaire de la région.»

J'ai souligné tout à l'heure que nous étions un conseil régional — nous sommes le seul conseil régional de la région d'Ottawa-Carleton puisque nous desservons tout le territoire — et que cette situation-là occasionne des pertes de revenus. Puisque nous sommes obligés d'avoir le même taux de taxes dans toutes les municipalités, que ce soit dans la région d'Ottawa ou de Carleton, conséquemment, nous ne pouvons pas établir un taux de taxes qui pourrait être compétitif avec chacun des conseils, puisque c'est le même taux à travers toute la région. À l'occasion, ça occasionne certains contribuables à choisir le taux le plus bas, même si dans une zone adjacente, c'est l'inverse qui s'applique.

Alors, nous suggérons plusieurs options. La première, évidemment, serait une réforme en profondeur du financement de l'éducation, mais il semble qu'on n'a pas l'intention de procéder à cette solution-là dans un avenir immédiat.

On pourrait créer d'autres conseils régionaux pour établir une compétition égale, «a level playing field», mais on sait très bien les conclusions auxquelles l'enquêteur Bourns en est arrivé, que la création de tels conseils entraînerait des déboursés très importants, des déboursés que nous avons eu à subir lors de la régionalisation.

Finalement, le problème du niveau de taxes uniforme pourrait être résolu très simplement. Il s'agirait d'ajouter au projet de loi 143 une disposition prévoyant un amen-



dement aux règlements de subvention générale — les amendements aux règlements sont toujours plus faciles que les amendements aux lois — afin de prévoir une subvention additionnelle pour compenser nos pertes de revenus dues à ces problèmes de régionalisation. Nous croyons qu'une telle recommandation pourrait être mise en oeuvre à très courte terme. En terminant, nous voulons attirer votre attention sur deux éléments essentiels qui réclament une action immédiate.

Le premier — et j'ai essayé de le souligner à travers ma présentation — c'est l'urgence que ce projet de loi soit adopté dans les meilleurs délais. Le fait que le gouvernement a décidé d'intégrer les changements à la Loi 109 dans un projet de loi omnibus sur la réforme de la municipalité régionale d'Ottawa-Carleton nous inquiète parce que les amendements qui portent sur les changements au niveau scolaire en général ont un appui, je dirais quasi unanime, alors qu'on sait très bien — vous êtes en session depuis trois jours — que les amendements au niveau municipal sont beaucoup moins unanimes, pour en dire le moins.

Deuxièmement, c'est que le ministre de l'Éducation et de la Formation crée, par voie de règlement, le conseil des écoles catholiques de langue française pour la région d'Ottawa-Carleton dans les 30 jours suivant l'adoption du projet de loi 143 ou, au plus tard, le 1<sup>er</sup> juillet 1994 à cause des échéances, des déménagements et des réorganisations pour septembre.

Alors, ce sont les deux points les plus importants, dans un sens d'urgence, de l'adoption du projet de loi 143. Que le ministre y donne suite dans les 30 jours.

Merci, Monsieur le Président et membres du comité.

**Mr White:** Thank you, sir. I very much appreciated your presentation. As you know, you make several points that will not be addressed in this legislation or in the amendments. You do make some excellent points that have been made and that I'm sure will be made again in front of the commission and should be part of both the commission and the Fair Tax Commission's report.

In terms of the issues specific to Ottawa-Carleton and the change and the creation of the board, I would ask Mr Tomlinson to comment.

**Mr Tomlinson:** Mr Landriault, on the question of assistance, was it for setting up the new boards?

**Mr Landriault:** Yes, and for dismantling the full board, if you wish. There's a cost involved in that.

**Mr Tomlinson:** Yes. That matter has been under consideration at the ministry. I'm not sure a final decision has been reached yet, but I can get in touch with the people who are dealing with that and let you know as soon as possible.

**M. Daigeler :** D'après les informations qu'on vient de recevoir, vous ne semblez avoir, jusqu'à présent, aucune assurance qu'il y aura une contribution du ministère aux dépenses de l'établissement du nouveau conseil.

**M. Landriault :** Non, il n'y a aucune indication à cette étape-là. C'est ce que M. Tomlinson semblait indiquer.

**M. Daigeler :** Vous avez parlé, je crois, de 500 000 \$ que l'abolition du conseil plénier —

**M. Landriault :** Nos projections indiquaient que si le conseil plénier avait été aboli au 1<sup>er</sup> janvier, il y aurait eu une économie nette chez nous de 700 000 \$ à la section catholique seulement. Il y a sans doute une économie à la section publique aussi, mais beaucoup moins parce qu'ils sont moins nombreux. Mais chez nous, on comptait les 700 000 \$.

**M. Daigeler :** À la section catholique comme telle, ça coûtait —

**M. Landriault :** À la section catholique, une économie de 700 000 \$. Ça coûtait 700 000 \$ de plus, si on veut, pour faire fonctionner le plénier pour l'année en cours que si on avait fonctionné sans plénier.

**M. Daigeler :** Est-ce que vous avez encore fait fonctionner jusqu'à présent un conseil plénier, ou est-ce que c'est l'administrateur qui —

**M. Landriault :** Non, non. Le conseil plénier existe toujours avec un directeur d'éducation intérimaire qui a été engagé à 20 % du temps mais qui, autant que je sache, travaille à plein temps, parce qu'à 20 % du temps c'est une journée sur cinq et on ne pourrait pas faire grand-chose. S'il y a une réunion, c'est la fin de la semaine. Alors, il y a certains employés, il y a certains chefs de service, parce que la Loi maintient la conciergerie, par exemple, le service de paye et certaines autres choses, au plénier.

**M. Daigeler :** Qu'est-ce qui va arriver avec ces employés-là ? Est-ce que c'est déjà —

**M. Landriault :** Il y a un protocole d'entente. Évidemment, on ne sait pas ce que la loi nous réserve, mais on a présumé que la transition serait semblable à celle que la Loi 109 nous avait amenée. Alors, il y a certains employés qui sont déjà rapatriés ; il y a d'autres qui vont être rapatriés au mois de juin. Mais il y a certains postes — le dédoublement — qui coûtaient 700 000 \$, mais il n'y a pas de solution à ça.

Alors, ceux-là, il y aura des mises à pied. On sait aujourd'hui que, quand il y a des mises à pied, il y a des primes de départ, peut-être même des poursuites ; on ne sait jamais. Mais dans le moment on va rapatrier, parce que la conciergerie, quand ça sera notre responsabilité, nous on s'engage à engager tous les gens qu'on peut possiblement et raisonnablement engager. Mais ça ne rapatrie pas tous les employés du plénier. Puis la section publique, autant que je sache, fait la même chose.

**M. Daigeler :** C'est certainement là-dessus qu'on a reçu des interventions un peu plus tôt.

**M. Landriault :** Oui, je sais qu'il y a une inquiétude qu'on comprend très bien chez les employés. C'est une des raisons qu'on demande d'avancer, parce que souvent on a plus peur de l'inconnu que d'une réalité qui peut être très difficile mais qu'on connaît, au moins.

**M. Daigeler :** Est-ce que vous êtes, comme conseil francophone, du tout positivement affecté par les changements du financement scolaire que le ministre vient d'annoncer ? Je crois que c'était vendredi.

**M. Landriault :** Ce que le ministre a annoncé, c'était

un règlement — si, c'est ce que je pense — avec la section publique. Il y a des négociations en cours. Comme elles ne sont pas conclues, en cours, je veux dire en marche —

**M. Daigeler :** Non, non. Je parle de l'ensemble des conseils scolaires, que le ministre a annoncé —

**M. Landriault :** Les subventions générales qui ont été annoncées vendredi. On a passé la fin de semaine à analyser, mais moi, je n'ai encore rien eu d'écrit là-dessus, alors, je ne peux pas vous dire quel est l'impact chez nous. On sait que c'est des temps difficiles, alors ce n'est pas ce qu'on aurait souhaité. Est-ce que c'est moins grave qu'on ne s'attendait ? Je ne peux pas vous dire, parce que c'est une formule assez complexe à appliquer à toutes les données statistiques.

**M. Daigeler :** Alors, vous ne pensez pas que ce soit nécessairement un atout pour vous. Ce n'est pas si clair que ça.

**M. Landriault :** Bien, non. Ce n'est certainement

pas un atout. C'est peut-être le mieux auquel on pouvait s'attendre dans le contexte, mais je ne peux même pas vous dire ça parce que je ne connais pas les résultats chez nous.

**The Chair:** Thank you, Mr Landriault. We appreciate you taking the time to be with us this afternoon.

**Mr Landriault:** Thank you, Mr Chairman.

**The Chair:** I'll remind all three caucuses that according to the motion in the House, all proposed amendments shall be filed with the clerk of the committee by 12 pm on the last day of clause-by-clause consideration. We've allocated Wednesday, April 20, for clause-by-clause consideration of this bill, so you'll have till noon that day to submit and table your amendments.

**Mr David Johnson:** Do you have any amendments?

**Mr Daigeler:** We might.

**The Chair:** We're therefore adjourned until 10 am, Wednesday, April 20, in committee room 1.

The committee adjourned at 1755.









## CONTENTS

Monday 18 April 1994

<b>Regional Municipality of Ottawa-Carleton and French-language School Boards Statute Law Amendment Act, 1994, Bill 143, Mr Philip / Loi de 1994 modifiant des lois concernant la municipalité régionale d'Ottawa-Carleton et les conseils scolaires de langue française, projet de loi 143, M. Philip</b>	R-797
Employees' Association of Ottawa-Carleton	R-797
Gérard Poirier, president	
Association des enseignantes et des enseignants franco-ontariens	R-801
M. Ronald Robert, président	
Conseil scolaire de langue française d'Ottawa-Carleton, section catholique / Ottawa-Carleton French-Language School Board, Catholic sector	R-803
M. Rodrigue Landriault, président	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Huget, Bob (Sarnia ND)
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)
  - Conway, Sean G. (Renfrew North/-Nord L)
  - Fawcett, Joan M. (Northumberland L)
- \*Jordan, Leo (Lanark-Renfrew PC)
  - Klopp, Paul (Huron ND)
- \*Murdock, Sharon (Sudbury ND)
  - Offer, Steven (Mississauga North/-Nord L)
  - Turnbull, David (York Mills PC)
- \*Waters, Daniel (Muskoka-Georgian Bay ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
- \*Wood, Len (Cochrane North/-Nord ND)
- \**In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Chiarelli, Robert (Ottawa West/-Ouest L) for Mrs Fawcett  
Daigeler, Hans (Nepean L) for Mr Offer  
Grandmaître, Bernard (Ottawa East/-Est L) for Mr Conway  
Johnson, David (Don Mills PC) for Mr Turnbull  
White, Drummond (Durham Centre ND) for Mr Klopp

### **Also taking part / Autres participants et participantes:**

Tomlinson, John, senior counsel, legislation branch, Ministry of Education and Training  
White, Drummond, parliamentary assistant to Minister of Municipal Affairs

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service





R-35

R-35

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 20 April 1994

# Journal des débats (Hansard)

Mercredi 20 avril 1994



## Standing committee on resources development

## Comité permanent du développement des ressources

Regional Municipality of Ottawa-Carleton  
and French-Language School Boards  
Statute Law Amendment Act, 1994

Loi de 1994 modifiant des lois  
concernant la municipalité régionale  
d'Ottawa-Carleton et les conseils  
scolaires de langue française

Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

*50th anniversary*

*1944–1994*

*50<sup>e</sup> anniversaire*

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal de débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Wednesday 20 April 1994

Mercredi 20 avril 1994

The committee met at 1028 in committee room 1.  
REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
AND FRENCH-LANGUAGE SCHOOL BOARDS  
STATUTE LAW AMENDMENT ACT, 1994

LOI DE 1994 MODIFIANT DES LOIS  
CONCERNANT LA MUNICIPALITÉ RÉGIONALE  
D'OTTAWA-CARLETON ET LES CONSEILS  
SCOLAIRES DE LANGUE FRANÇAISE

Consideration of Bill 143, An Act to amend certain Acts related to The Regional Municipality of Ottawa-Carleton and to amend the Education Act in respect of French-Language School Boards / Projet de loi 143, Loi modifiant certaines lois relatives à la municipalité régionale d'Ottawa-Carleton et la Loi sur l'éducation en ce qui a trait aux conseils scolaires de langue française.

**The Vice-Chair (Mr Mike Cooper):** We'll be starting today on our clause-by-clause of Bill 143. Would you like to start with section 1 and go to a general discussion and proceed?

**Mr Hans Daigeler (Nepean):** Before we start the general discussion, could we have some information as to whether the minister will be here at any particular point?

**Mr Drummond White (Durham Centre):** I'm not aware of the minister planning to be here today. I will be filling in for the minister as I did last weekend.

**Mr Daigeler:** While I don't want to denigrate the confidence of the parliamentary assistant, I do think this starts us out on a very poor footing. The minister obviously is not showing any kind of willingness to get a real feel as to what is behind the views of the people in Ottawa-Carleton. I don't get any sense of reassurance that the sense of frustration that we heard in Ottawa-Carleton was communicated to the minister, and I had hoped that at least he could hear part of that today. Since we have only one hour of debate on third reading, I think it's very, very disappointing that the minister doesn't plan to be here.

**Mr David Johnson (Don Mills):** I guess the member for Nepean is expressing concern with regard to procedure and I would have to echo that on several counts. Reference was made during the public hearings last Friday and Saturday as to how opposition members had held up the process of the consideration of this bill, and I have to take objection to that, I guess number one in terms of procedure.

I've only been here now a year, but this bill first came forward as Bill 77 some time last year. I'm not sure exactly when, but fairly early on last year, I think. The government didn't bring it forward at that point. There were obvious objections to it from 10 of the 11 municipi-

palities, from many citizens and many organizations, and the government didn't bring it forward.

There was an attempt, as I understand it, to contact various members, particularly those who represent the area, and indicate that there was a desire to get the bill through fairly quickly and that the government wished to get the bill through fairly quickly but it didn't wish to meet with any resistance. The implication was that if any time in the House was going to be allocated to this, then it wasn't high enough in the priorities of the government to bring it forward and use the time of the House.

Consequently, the minister only brought it forward right at the very end of the year, in December, and put it on the order papers, I can recall, as the third or fourth item on some particular day behind a number of other bills—this was in December of last year—clearly hoping that it would somehow magically go through in perhaps 15 minutes or half an hour. Certainly it was my view, and I know the view of our party, and I suspect the view of the opposition in general, that in view of all the concerns that had been expressed, that was not giving the bill due consideration. As it turned out, the other bills occupied the full period of time and Bill 77 never did come before the House last year.

To blame that on the opposition parties I think is reprehensible. I fail to understand how a government cannot give priority to a bill, cannot bring it forward as the number one priority, first thing in the day, somewhere well before the end of the year, and show that commitment to a bill, cannot take that course of action but can take an entirely different course of action, which is to put it number three or four on the agenda right at the very end of the year and then blame it on the opposition parties that it didn't get consideration the previous year.

Then what happened is that Bill 143 came forward this year as the concoction of the old Bill 77 with some amendments for the French school board being thrown in at the very last moment without members having really the opportunity for full consideration.

Number one, I have to take the strongest possible objection that the fact we're in this time mess at the present time has anything to do whatsoever with the opposition parties. It's clearly at the feet of the government for not giving this priority last year.

I've talked to a number of people both during and since the deputations on the weekend in Ottawa and I can say that there are many very disgruntled citizens and elected representatives from the Ottawa region.

These were people who expected the minister to be



there and they were astounded that the minister would not come to Ottawa to participate in the hearings, because they felt, and they hoped, that even though the hearings were short, the people were prepared to listen to what they had to say. But the fact that the minister wasn't there, and this bill of course emanates from the minister, leaves the clear impression that the fix was in, that the minds were made up and that this bill is going through no matter what people say. I think that's most unfortunate from a procedural point of view.

Secondly, the shortness of the time: Many people did not get the opportunity to speak. There were people clearly there during the proceedings who wished to speak, but they could not be fitted in because of the shortness of the time allocation. There were many other people who objected that all the allocations were already made up before they even read about the advertisement in the newspaper and they don't quite understand how a government can approach a significant bill in that fashion.

This is a bill that is going to affect the most important level of government to the vast majority of the people in the Ottawa-Carleton region, yet it's being considered in a day and a half on a weekend with very limited time for people to speak. In terms of procedure, again, it's most unfortunate. Right from the start to the inglorious end here now, with time allocation and the fact that we are very limited—we have half a day, essentially, to discuss this today and one more hour, I believe, when it finally comes before the House—right through this whole piece there's been virtually no discussion.

Many people have taken objection to the fact that the government has said over and over again, "We've had hundreds of discussions through the Kirby report and thousands through the Bartlett report," and da-da, da-da, da-da, etc etc etc. The point is being made that this bill, in many aspects, is distinctly different from the Graham report, from the Bartlett report, from the Kirby report, from the Mayo report, from any of those reports that have gone on in the past. There are new concepts that have come out of this, new clusters of concepts, I guess, that people have not had the opportunity to talk about. The mayors not being on the regional council is certainly one of them. This has come out time and time again.

No matter what is said—that there have been thousands of hours of consultation on this particular bill and the concepts that are in this particular bill, which are very important to people—there has been virtually no consultation. I'm afraid we're going to bear the consequences of that once this is passed, as I'm sure it will be, when it's put into effect this fall.

Those are the comments I would make just in opening, then, on the process. I think it's been a very poor process, a process where there were minds made up. Certainly, in the opinion of many people in Ottawa, the minister who represents that area had a great deal of input into this, and perhaps one or two other key figures. They, for whatever reason, felt this was the proper way to go and the government has toed that line all the way along. Clearly, listening to the people, it's my guess that of the deputations we've heard, four to one are opposed to this bill or some provision of this bill. There are certain

provisions that they support, but four to one, there's opposition in terms of the bill in its entirety that's before us today. Perhaps I'll leave those as my opening comments.

1040

**Mr Bernard Grandmaître (Ottawa East):** I'd like to go on record as well to denounce what's happening this morning, but the opposition is used to time allocation or closure. This is not the first time it's happened. I think this is the 13th or 14th occasion that the opposition has been stifled and dictated to by the government, as pointed out by the previous speakers, the member for Nepean, who talked about the process.

I would like to refer to the latest series of meetings in Ottawa-Carleton last weekend. I think it proved that the people of Ottawa-Carleton are concerned. I think people in Ottawa-Carleton would like to see some changes brought on their regional government, but not those excessive changes.

I want to remind the members of the government that from the very beginning of the review of regional government in Ottawa-Carleton, one-tier government was never, never considered. When Mr Bartlett was first appointed back in 1987, and also Katherine Graham a few years after, to look at the possible boundaries of new regional wards in Ottawa-Carleton, one-tier government was never asked for, except for one municipality and that was the city of Ottawa.

I was very surprised in the days of Mr Cooke when he was Minister of Municipal Affairs, that one-tier government wasn't even on his agenda. I was told by the minister at the time, "No, what you see is what you're going to get," meaning that no additional surprises would come our way.

Well, on a fine morning, after a very short breakfast, the member for Ottawa Centre asked me to consider the possibility of looking at one-tier government. Naturally, I was never interested in one-tier government and I don't think my party is interested in one-tier government. Then there was a change of minister. Mr Philip became the Minister of Municipal Affairs and shortly before taking over Municipal Affairs Graeme Kirby was given a mandate to look at one-tier government. I thought that was a waste of money. It cost the taxpayers of Ontario close to half a million dollars to look at something that was decided a long time ago: that one-tier government wasn't acceptable to Ottawa-Carleton.

Here we are today, after Bill 32, Bill 77 and now Bill 143, and the government is putting an end to the consultation process. When you look at Bill 32, Bill 77 and Bill 143, these bills don't really coincide. They've added to Bill 32, which became Bill 77, and then we were criticized by the minister for stalling Bill 77. We lost a lot of time and spent money advertising trying to convince the taxpayers in Ottawa-Carleton that the opposition was stalling or putting a kibosh to the government, a majority government, and that they would introduce another bill, maybe the first item in the new session or the spring session. It came along as Bill 143, which adds amendments to the Education Act in respect of French-language school boards.

I realize this was not the mandate of Mr Graeme Kirby. This was commissioned by the Minister of Education and Mr Bourns submitted a report which was mostly well accepted in Ottawa-Carleton. Now the government is offering less consultation to our school boards. As pointed out by the previous speaker, not everybody was given an opportunity in Ottawa-Carleton to even consider the new amendments to the Education Act and also the creation of two new school boards in Ottawa-Carleton—two independent school boards, I should say.

I could go on and on, but I think enough has been said. The government should realize that what we are about to do is unacceptable in Ottawa-Carleton. I would ask the members of this committee, especially the government members of this committee, to seriously consider our amendments, because our amendments will reflect the real needs of changes to the Ottawa-Carleton regional act. I hope they will seriously take into consideration our amendments and support them, and then, who knows, I might be able to support Bill 143 in its present form. At the present time I'm forced—not forced, because nobody should be forced to do anything, but I am compelled to vote against Bill 143.

**Mr Daigeler:** Further in terms of some opening questions, could I have some clarification? I think there were written submissions still received with regard to the public hearings. Are we still going to get these today, as soon as possible? When are we going to get these?

**Clerk of the Committee (Ms Tannis Manikel):** You made the one you handed me today?

**Mr Daigeler:** No, material that was given to the clerk and to the committee as part of the requested written submissions of those who couldn't be accommodated due to the fact that there was only one day and a half of public hearings.

**Clerk of the Committee:** All of the submissions that were either handed to me and hadn't been copied for the committee when we were in Ottawa or any of the ones that I've received up to this morning have been distributed to all the committee members.

**Mr Daigeler:** I must have either overlooked something, or I don't know. Perhaps you can verify for me—

**Clerk of the Committee:** I can verify that with my office.

**Mr Daigeler:** —whether you've received, and whether it was distributed, a communication from Mr Donald Wigfield.

**Clerk of the Committee:** The name is familiar. I believe it came in this morning and it's being copied.

**Mr Daigeler:** Then that has not been distributed yet.

**Clerk of the Committee:** No, I'm sorry. That one will be coming later this morning.

**Mr Daigeler:** Okay, because I think it's a very good brief and certainly the committee should be aware of this.

Secondly, I have just asked the clerk to distribute a communication that my staff has received from the minister's staff. I think it's of interest to the committee because I had asked the minister and the minister's office quite some time ago, and then I finally had to put it in

writing on March 22 and finally got an answer yesterday, how many letters were received by the minister and what was the tenor of these letters.

I'm distributing the response to the committee, but just so that you know in the meantime, it says here: "Since Bill 77 was introduced, on July 22, 1993, the minister has received over 1,000 letters in response to the bill. More than half of the correspondence"—surprise, surprise—"was from the city of Nepean"—because we feel very strongly about the local government in Nepean. Then it says: "Form letters and coupons composed much of the correspondence received from Nepean. As is the nature of write-in campaigns, most of these letters were opposed to the proposals contained in the bill."

This is from the chief of staff of the minister, if he's here, or perhaps the parliamentary assistant can clarify for me what is meant by "as is the nature of write-in campaigns." Does this mean that the people who have written are discarded simply because they're against this bill? Is that the normal practice of the government, that if people are opposed and they're getting lots of letters, they're simply being written off? What is the meaning of "as is the nature of write-in campaigns"?

**Mr Grandmaitre:** File 13.

**Mr White:** Good question. May I make some opening comments as well as respond to Mr Daigeler? Mr Daigeler, are you finished?

**The Chair (Mr Bob Huget):** You might want to respond to Mr Daigeler's question. Are you going to conclude your remarks or do you have more to say?

**Mr White:** Do you have further remarks you want to make?

**Mr Daigeler:** Further remarks, but that's just the question right now.

**The Chair:** Would it be acceptable then that Mr White addresses that issue after you speak, because he also has remarks?

**Mr Daigeler:** Oh, I see. Okay, we can wait for these specific questions.

**The Chair:** He's made note of your question and will address that in his remarks. He's the next scheduled speaker.

**Mr Daigeler:** Okay, I'll let him speak.

**The Chair:** You're finished?

**Mr Daigeler:** At this point, yes.

1050

**Mr White:** I'm very pleased that we're at the point now of finally addressing, after so many years, the issue of the reform of the regional municipality of Ottawa-Carleton. As we know from our submissions and from the lengthy debate in the House, this has been an issue that has been outstanding in the region of Ottawa-Carleton for almost 20 years, almost a full generation.

Since 1976 we've had the Mayo report, the Bartlett report, the Kirby report, the Graham report and the Bourns report. All of these extensive consultations and extensive workups for a number of different governments of all three major political stripes have indicated a need for reform for the region.



This bill in fact does address most of those issues. I'm actually struck, as we examined the number of services and the various reforms that are involved in terms of services offered in Ottawa-Carleton, that in many ways the structure and the powers of that regional municipality are still only half of the way to what they are in other areas of the province.

For my friends from the Ottawa-Carleton area, I would certainly apprise them of my own situation in Durham region where the powers, somewhat like in Metro Toronto, where the police have been regionally administered for some 20, 21 years and where day care, social services and a whole range of other services, sewers etc, which have been brought close to that structure in Ottawa-Carleton, have been regionally administered in most of the rest of the province where there is regional government, by that regional municipality for some time. Those reforms, while they are somewhat significant for the people and for the services in that region, really only reflect what has been the custom, what has been the practice in the rest of the province for the last 20 years or so.

There is one obvious issue, which is the issue of representation by population, and it was thought after careful study that the best way in which to effect that would be to have approximately one vote on regional council for every 35,000 citizens in the Ottawa-Carleton region in order to effect some adequate level of representation by population and to use the same basic guidelines as dictate the representation that we have here in the provincial assembly, the same criterion as we have here in designating ridings.

Basically that meant a change in the representation, and it meant that people who are elected locally serve locally and people who are elected regionally serve regionally. That meant that the local councillors did not sit on regional council, so be it they don't now, and that the mayors who were elected locally did not serve regionally as well. That has been a major source of controversy, certainly something we've heard about at some length. The principle of privilege for some and the principle of representation by population seem to be in some level of contest.

In terms of the differences between Bill 143, the present bill which is before us, and Bill 77, the major changes are ones a couple of which could have been reflected by amendment and some of which could only have been effected through a new bill. Those changes are the implementation of the new date or giving greater flexibility for the institution of region-wide policing and the administration of that service at a regional level. That was something that was important and it reflects the information we have more recently and currently in terms of the setup of a police force.

There were amendments which basically were changes which reflect the need to have these things in place for the 1994 municipal election anticipated in November, and so some of the amendments reflect those specific needs, and of course and very significantly, the very popularly supported amendments to the French-language school board act, so that a situation which was not working

effectively in the Ottawa-Carleton region could be addressed.

It seems from our presentations on Monday that those issues are very well received. Certainly the experience we had in Ottawa as well reflected the popularity of these amendments. So the change from 77 to 143, in terms of the substance of the bill, seems to have addressed important issues and to be fairly well received.

The importance of this bill should not be underestimated. We have had lengthy, lengthy consultations, as we know. While we were not able to spend the time in Ottawa-Carleton that we might have liked to because the House is in session, still we have had extensive consultations on the nature of this bill and the reform, as we know from the Bartlett, the Kirby, the Graham reports. We are talking about, with one of those alone, some 1,600 people being involved, hundreds and hundreds of written submissions, and we certainly have ourselves heard innumerable accountings.

On the issue about the ministers being involved, I would like to emphasize that all of the stakeholders were all briefed on many occasions. Both the present Minister of Municipal Affairs and his predecessor, when there were any changes or any new announcements, went to Ottawa to make those announcements, and the present minister, the Honourable Ed Philip, met with the mayors on a number of occasions in regard to this bill.

The minister's presence was spoken about at the outset by Mr Daigeler. I certainly can't attempt to represent him or to fill in for him in a total way; however, my role on this committee and with this bill is to do so. I appreciate that Mr Daigeler would love to have Mr Philip here and no doubt wishes to debate the bill with Mr Philip and would appreciate, I'm sure, Mr Philip's advice. However, he does have another engagement this morning, the executive council of the province, which commands his attention.

During the weekend the comment was made that Mr Philip was not in Ottawa. However, we also had the unusual circumstance, as I'm sure the members opposite noted, that we had a minister who is sitting on the committee. That's a very unusual circumstance. I believe it's very rare that you have ministers sitting in on government committees, and that shows the level of attention that both Mr Philip, through his careful working through of this bill, and other ministers and the Premier have given to a substantive and fair reform of the Ottawa-Carleton regional municipality.

While we're at the end of this process, I think the issue of consultation is an interesting one. We have had not just those meetings but also special meetings for opposition members to make them aware of and current with those issues.

The hearings, I thought, were very interesting and very informative. We have government amendments which address some of the concerns that were outlined and which we will be getting into at a later time. The minister has responded to, I believe, all of the letters he has received on this issue. There was a letter that Mr Daigeler read into the record to his executive assistant, and I believe the issue was that these were a write-in campaign,



the majority of the 500 letters from the riding of Nepean being form letters or coupons.

Of course, we know this is an important issue. We know this is something where the citizens of Nepean have been interested and involved through the good actions of their representative, who has ensured that they participated fully, and we knew certainly on the weekend how well Nepean has been represented and how many people from the city of Nepean and from Mr Daigeler's riding were able to show up at the committee hearings and to make presentations. Both they and their member have had their views extremely well articulated.

We also know that the taxpayers of Nepean, through the extensive expense that was spent on newspaper ads and other issues, have been fully informed of the issue and certainly have been informed of the views of the mayor of Nepean and other of the council members who are in support of the mayor and of the member.

1100

The fact that we have a form letter does not mean by any stretch of the imagination that those letters are not responded to. My understanding is that all of the letters were responded to fully and the issues that were brought up were addressed in writing by the minister, so that even though a letter may be a coupon or a form letter, our response as a government is sensitive to the views that are reflected.

I'd like to thank the members of the committee from all sides for their active participation in the bill and look forward to hearing views on the amendments and the clause-by-clause discussion of Bill 143. Thank you.

**Mr David Johnson:** Just a question or two to the parliamentary assistant. You indicated in your remarks that this is an important issue. I think those are the words that you used. Indeed, this affects the local government of about three quarters of a million people, which I guess is getting pretty close to 10% of our population—it must be about 8% of our population in Ontario—so it is a most important issue, and you must obviously recognize that some people are opposed to it.

You've indicated that there have been extensive consultations, that sort of thing. But in terms of the Legislature dealing with this issue, do you know how much time the Legislature has had to deal with this issue?

I can recall three days in terms of second reading debate on Bill 143. I don't think Bill 77 actually came forward for any debate, either committee time or Legislature time; correct me if I'm wrong. Then in terms of the committee work for Bill 143, we had the day and a half in Ottawa and I guess today. Have I missed anything there? Has there been any other time that the Legislature has spent on this issue?

**Mr White:** I believe when I spoke of consultation, I spoke of the 20-year-long process that was initiated with Mr Mayo that came about in the 1970s and the level of debate that has occurred in the Ottawa-Carleton area. I think there's been a lengthy and extensive debate in the Ottawa-Carleton area.

I'm sorry, Mr Johnson. I don't have an accounting of the number of minutes that were spent in the Legislature

on Bill 77 or on Bill 143. I'm certainly aware of the time that was spent on Bill 143, having been there, but I'm not sure that I kept a stopwatch on that discussion, nor was I involved with the House leader in terms of the positioning or timing of when that bill was to be discussed.

**Mr David Johnson:** We're not blaming this on you as an individual. Don't get me wrong there. But the former Minister of Municipal Affairs is indicating that in terms of Bill 77, there was no Legislature time whatsoever, committee or Legislature time. That's my recollection, although I came in partway through this issue, I guess.

In terms of Bill 143, we have to have three days of debate before you effect closure, so there must have been the three days of debate there, and we did have the day and a half in Ottawa where we shoehorned in a fraction of the citizens who wished to speak, and then we have today. That boils down to three days of Legislature time—three afternoons, as it turns out—and a day and a half of public hearings. I take it the government considers that sufficient time to debate a bill of this magnitude. That's the only conclusion I can come to.

**Mr White:** In terms of Bill 77, there must have been some legislative time, or it wouldn't have been a bill. It must have been introduced at least.

**Mr David Johnson:** It was introduced but there's no debate on first reading. We'll give you another 10 seconds there then, to be fair. I gather from your comments that you consider that amount of time to be sufficient for a bill of this magnitude that affects almost 10% of our population.

It was noted partway through the hearings in Ottawa that just about all of those who favoured the bill, and there weren't that many—my estimate is that they were four to one opposed, but maybe you have a different estimate, I don't know. Those who did come forward almost invariably supported one-tier government.

I think the mayor of Ottawa, for example, was the first one and the former mayor of Ottawa was another one who came along at some point during the hearings. They all seemed to say, "Yes, do this. We support one-tier government," and they almost took it for granted that this was going to lead to one-tier government. That was noted by somebody, I forget who it was, that it was very obvious.

What commitment can you give to us? Is that your view, is that the government's view, that this is the automatic first step to one-tier government, as many of the deputants surmised, or what will you tell us in terms of the government's position on that question?

**Mr White:** Thank you, Mr Johnson. I think it's a very good question. The issue about one-tier government was brought up earlier, and I apologize for not having addressed that particular issue. This of course should be clarified. This is, as I said earlier, a long way short of one-tier government. The level of structure that's involved here, the number of services that are involved here are again far short of those in any other regional municipality that I'm aware of.

In effect, obviously, if one were to want to instigate,

to put into place, one-tier government, we would have had the opportunity, if that was our intent, to have done so. We did not. We simply reformed the regional municipality of Ottawa-Carleton in a way which brings it most of the way towards the other regional municipalities' structure and services in the province of Ontario.

Mr Johnson, you're familiar with the regional municipality of Metropolitan Toronto. Certainly day care, social services, police etc, all of those issues that are brought in this bill, that are addressed here, have long been the case in Metro Toronto and in Durham and in Hamilton or Niagara.

While many people who addressed the committee may wish to have one-tier government, it was not, as I recall, their opinion that this was the intent of our government, nor were any of them sharing with us some previous consultation which they had had with any of our officials or of our political staff that this was our intent as a government to do. The Minister of Municipal Affairs has gone on record on many occasions to say very clearly that what we are doing is what we are doing, period.

There is no intent to mimic the issue of the removal of mayors from the regional council into other areas. This does not set a precedent for Durham, for Metro or for other municipalities, but rather addresses the specific issues and concerns of the Ottawa area with the number of municipalities involved and with the wide divergence in size of those municipalities. In order to effect representation by population, it was necessary to have a direct election of a regional chair, which was already instigated, and also of regional councillors.

It also, as I recall, was the opinion of most people that a direct election of regional councillors was widely supported.

**Mr David Johnson:** Just to speak to the credibility, if I was a councillor from another region and I heard those reassuring words that this is not intended to apply anywhere else, I would say to myself, let's examine the credibility of that statement and I would say the government has had some consultations in the region, I gather, after Bill 77 was implemented, to the extent that they involved the Kirby commission primarily, I think.

1110

I don't know how extensive those consultations were, but whenever this concept, for example, of the linkage being lost between the local and the regional government comes up, the information I have indicates that there's overwhelming opposition. During the sessions in Ottawa last weekend, it was brought to my attention that there were meetings in Nepean, I believe, where the vast majority were opposed—I beg your pardon?

**Interjection:** Gloucester.

**Mr David Johnson:** Gloucester—a huge meeting in Gloucester where the residents were opposed. We have the letter today from Ian Fawcett, chief of staff, who indicates that there are 1,000 letters in response and more than half from Nepean. Apparently these people don't count because they're opposed, but at any rate it's obvious that the vast majority are opposed to this.

If I'm from some other region and examining the

credibility, I'm saying to myself 10 out of the 11 municipalities are opposed to this, 10 of the 11 mayors are opposed to this, the majority of the people who have been consulted are opposed to this, and if the government is prepared to ignore all of those municipalities and all of those people who are opposed, I don't know where the support is coming from.

I guess the Ottawa Citizen supports it and we've been told over and over again that Claude Bennett does—I must talk to Claude Bennett about this. So there's one newspaper and one person and there were one or two NDP councillors.

**Mr Daigeler:** The mayor of Ottawa.

**Mr David Johnson:** The mayor of Ottawa, that's right and, of course, the minister. You can sort of go down them person by person in terms of the people that we're aware of. I think one gentleman actually did that in terms of his presentation. It's probably in this pile here somewhere. He listed the people who were in support.

**Mr Grandmaitre:** They're all paid positions.

**Mr David Johnson:** They're all paid people, are they? I don't know. At any rate, you can almost go down them and count them on your fingers and toes and the people who are opposed are in great numbers. I would say if the government can ignore the majority of the people in Ottawa-Carleton and impose a structure over the will of the vast majority of the councils and over the vast majority of the people, why couldn't they do it anywhere else? Why couldn't they do it in Niagara or Metro or Muskoka? What credibility would your statement have?

**Mr White:** I believe again, if we can review that, we've had a lengthy process of consultation, we've had innumerable people who have been consulted in one form or another. I believe, as we had heard from one of our deputations, although it was several years ago, there was a referendum in the city of Ottawa which indicated a substantive level of support for reform of the regional municipality. I understand that in the city of Nepean and other areas, where there has been extensive paid advertisement in opposition to the removal of mayors from regional council, there have been a number of people putting forth their views and I think they have a right to do so.

Again, as I was saying earlier, the minister and I and of course all of us are sensitive to the views of the people of Ottawa-Carleton, and the minister has responded to all of the letters. The comments you refer to in this letter are descriptive and I think the issue is that some people may infer that, because they were form letters and coupons, the chief of staff here—we saw in this letter—is dismissive of those. I'm saying to you, sir, that's not all the case.

I receive form letters and coupons as well. Just this week in provincial Parliament—you may recall that in one day's mailing I received several thousand coupons, letters from people in my constituency about a local issue.

**Mr David Johnson:** Don't they count? Don't they have a message to convey?



**Mr White:** They certainly count. Not only do they count—

**Mr David Johnson:** Do you write them off? Do you say, "If you write a coupon, I don't care what you have to say," or, "I only care if you have to support it"?

**Mr Daigeler:** Only if it's from your riding.

**Mr David Johnson:** Oh, only if it's from your riding, I see.

**The Chair:** Order, please.

**Mr David Johnson:** I'm still learning the rules, Mr Chair.

**Mr White:** Mr Johnson, not only do they count, but I've brought them to the attention of the affected minister and ministry to ensure that the ministry is aware of those issues. I intend to forward those, but those were thousands in one morning's mailing alone. That minister, I'm sure, will respond just as well as Mr Philip has to every single one.

As a matter of fact, in provincial Parliament that minister said, "I want to say to those people"—and he read several of those right there—"that if this demand is real, I want to be sure that service is available."

Just in the same way, we have listened as a government under three different political stripes over the last 20 years to different submissions and feelings, not just from the people of Ottawa but also from the people of Nepean and Gloucester, and of course we have to find means of resolving those issues.

The issue we heard time and again on the weekend was two things: (1) "This has been going on far too long," and then (2) of course is "You're not consulting enough." Well, 20 years, a full generation of life, is usually considered to be a sufficient time for consultation.

**Mr David Johnson:** Through you, Mr Chair, the member is acknowledging, then, that the chief of staff's comments were inappropriate in saying that using the words "as is the nature of write-in campaigns" and implying second-class status, I suspect, for those with coupons—

**Mr White:** No, let me clarify that, Mr Johnson.

**Mr David Johnson:** I haven't quite finished. I agree with the parliamentary assistant in that assessment. I would assume he would acknowledge, then, that all these letters convey a message, and the message is overwhelmingly in opposition.

It's possible to say that the government has responded, but obviously the response is not being accepted. Sure, we would assume any government would respond to every letter that's come in; that's not the point. The point is, are you hearing the message? Certainly from my observations, the message is not getting through. Yes, the letters are going back, but they might as well contain my grocery list for all the relevance they're having in terms of what people are expecting. People are expressing their concerns and the government is not identifying with those concerns. The government is not recognizing those concerns. The government is not taking any action.

I don't see any amendments here today to address the concerns that have been put forward. One of the concerns

that's put forward, beyond the lack of linkage between the local council and the regional council, beyond the policing problems—and I heard a great deal of pride with regard to community policing in Nepean, community policing in Gloucester, and concern that that community policing is going to be lost in the new police force that's going to come into effect, and not only is it going to be lost but the cost is going to go up to municipalities such as Gloucester and Nepean and Kanata and a number of the other municipalities. So the cost is going to go up, the service is going to go down: They're going to lose their community policing. I don't see that addressed in here.

Another concern that's come forward by a number of not only municipalities but individuals is the total cost of this whole thing. The policing would be the main component of that, but also the cost of the directly elected representatives, for example. There was no analysis made. Some of the speakers said: "We're just implementing this and then we're going to find out after the fact what the cost is. There should be an upfront analysis of this."

One of the questions I'd like you to address is, have you not really done any cost estimates of what this new government is going to cost the people of Ottawa-Carleton? It's hard for me to believe that somewhere in the bureaucracy somebody hasn't sat down and said: "People are really upset about the cost of government today at all levels. It's time we did a little estimate here. Is this going to reduce costs? Is it going increase costs?"

The deputations I heard certainly said it's going to increase costs because at the regional level, for example, they pay a higher administrative cost per person. A couple of the deputants and the Price Waterhouse study mentioned that. The cost of regional government is higher, plus paying the councillors themselves, plus the police etc. I don't think there's any way that this isn't going to cost a great deal more money, and most of the deputations agreed with that. Hasn't anybody done that kind of analysis? Perhaps you can tell us, maybe comment on that, on the community policing.

There are a lot of concerns. Sure, you're writing letters back, but they're not answering the questions. People are being consulted, but they're not being listened to or responded to in a meaningful way.

1120

**Mr White:** First of all, let me repeat what I was saying earlier. It's regrettable that anyone would assign to this letter a valuation on the part of the minister's chief of staff. The point is that you talked about form letters and coupons, and I assure you again that every letter, every form of correspondence, is going to be addressed. None of them is considered to be of any more or less value than another.

The issue you mentioned in terms of costing was brought forth, as you know, in the hearings. There were many deputants who suggested that the Price Waterhouse survey was inaccurate because it was founded upon the idea that all services would be brought up to the same level as the city of Ottawa's.

**Mr David Johnson:** It sure will. It'll happen.

**Mr White:** On the issue of policing, the city of



Ottawa's policing was some \$40 per household more expensive than in other regions in Ottawa-Carleton.

**Mr David Johnson:** Other estimates showed a bigger variance.

**Mr White:** I would bring to your attention the fact that in our area here the cost of policing in Metro Toronto is in fact almost twice what it is in surrounding municipalities.

**Mr David Johnson:** So it makes Ottawa and Metro the same.

**Mr White:** So the difference between the city of Ottawa and the outlying areas of the region is in fact much less than it is between Metro and your area or Metro and Peel. The fact that you have a more expensive cost of policing in a larger municipality—

**Mr David Johnson:** That's the point. That's exactly the point.

**Mr White:** —where the people in that region work, just as they do here, is a pretty natural phenomenon. I think that's pretty well addressed that.

**Mr David Johnson:** I'll let somebody else have a go here. I'm not getting anywhere.

**Mr Grandmaître:** The parliamentary assistant did tell us about 15 or 20 minutes ago that Bill 143 differs a great deal from Bill 77. I want to point out to you that to me the only major change in Bill 77, now Bill 143, is the additional amendments to the Education Act concerning the French-language school board.

Let's take the five main components of Bill 77 and the five components of Bill 143. The ward boundaries: The ward boundaries were included in Bill 77, they're included in Bill 143. The economic development policy was in Bill 77, and it is in Bill 143. The composition of council was in Bill 77, and it's in Bill 143. Also, the exclusion or inclusion of the mayors was, to me, settled by the government in Bill 77, saying, "No, the mayors will be excluded." The mayors are still excluded in Bill 143.

What I am trying to tell you, Mr Parliamentary Assistant, is that there are no major differences between Bill 77 and Bill 143 except that the regional police starting date has been extended to 1997.

**Mr White:** And the French-language services, and the French-language school board.

**Mr Grandmaître:** Yes, but that's new. That's the difference between Bill 77 and Bill 143. We could have acted on Bill 77 months ago, six, seven, eight months ago, because we had all those facts. We have no additional new facts concerning the municipal government issues that we didn't have in Bill 77. They are the very same. There are no new studies or costs on these services. A temporary police commission was put in place to look at the policing services needed in Ottawa-Carleton.

Let's talk about the opposition not only to Bill 143 but to Bill 77. It doesn't matter in what shape or form the opposition takes place. It could be coupons, it could be letters, it could be facts; in 1994 there are all kinds of new technologies and new ways to oppose a bill. And

this is the message the population of Ottawa-Carleton is trying to deliver today, that this is going beyond the original intention of the Ottawa-Carleton regional government review.

You say you talked about the 1987 referendum that was held in Ottawa by the city of Ottawa, and you're absolutely right: They were overwhelmed. The population responded, "Yes, we want one-tier government." But the other day in Ottawa, I asked you to consider a referendum and you were asked by the former mayor of Kanata, and your answer to these people was, "We can't govern by referendum." Well, why would you use the results of a 1987 referendum from the city of Ottawa? Today we have an amendment which will be asking for the very same thing: to have a referendum in Ottawa-Carleton to consider the presence of the mayors on regional council.

And I want to go back to local government. This is unique not only in Ontario but right across Canada. This will be the first time in Canada that mayors are excluded on the upper-tier level of government. This is a first in Canada, so when you say there are no major changes to local government in Ottawa-Carleton, I'm sorry, but you're wrong. The new composition of our regional government will be very different. I asked ministry staff if there was any other example: "Give me an example. Where does it exist in Ontario or in Canada that mayors are excluded?" The answer was, "We don't know."

We are heading towards a one-tier government. Like it or not, I think this is what the new model of government in Ottawa-Carleton will look like in a very short period of time.

We will start negotiating, and I call it negotiations when we start going through the clause-by-clause, but I want to assure you that Bill 77 and Bill 143 are the very same bill as far as the municipal government changes are concerned, and this could have been introduced a long time ago.

On the mayors, I want to remind you that regional council did go through the Kirby recommendations one by one, and regional council accepted and voted to include the mayors on this new council. Also, in the economic development part of the bill, regional council voted in favour of a shared accommodation between the local and the regional levels of government. And yet in Bill 143, not only are you going against the will of regional council but you are going against the will of 750,000 people in Ottawa-Carleton, believe me. I don't think it's right for you today to say that the 1987 referendum in the city of Ottawa really reflects the disposition of our constituents in Ottawa-Carleton.

### 1130

There is no excuse for the government to say Bill 143 is different. I'm sorry, Bill 143 is no different except for the school boards education amendments. Bill 77 is the very same as Bill 143 and should have been dealt with a long time ago. The one-tier idea from the member for Ottawa Centre really put the kibosh on Bill 77 and really strapped the ministry, because I don't think your ministry was given any special instructions, "Let's look at one-tier government," until it was decided by and recommended by the member for Ottawa Centre that we should look at

one-tier government. I'm sure your ministry was very surprised, because since 1987 one-tier government was never, never a concern to your ministry.

**Mr White:** I look forward to the debate on this issue of the referendum when we get to that point in the proceedings of clause-by-clause. I understand there is an amendment to that effect, and I look forward to the discussion at that point.

In terms of the other issues, let me repeat that what we have here is a structure of local and regional government, not of one-tier government, and it is not the intent of this government to move to one-tier government in the Ottawa-Carleton region.

**Mr Daigeler:** First of all, let me say something positive about the government. I did appreciate the Minister of Housing being there on Friday. I am aware that it is difficult for the ministers to free themselves, and I did welcome her presence all day on Friday, and she tried to come on Saturday. I appreciate that and I think the people who appeared appreciated that, although they had some difficulty with her body language and were not overly impressed in that regard. Nevertheless, I acknowledge the fact that the Minister of Housing was there.

Earlier on, Parliamentary Assistant, you quite blatantly implied in your remarks about the responses that were coming from Nepean—and I presume if the member for Carleton were here he would say the same thing about the responses from his area—that they were organized either by the city or by myself and that therefore we ought to take those responses with a big grain of salt.

Well, I can tell you, and through you to the minister and to staff and everyone else, that I've been quite careful to try and consult with the people and get a feel for where they are and to some extent be non-directive. Obviously, there's a certain amount of leadership that I have to provide and that the city council of Nepean has to provide. There's a responsibility of the mayor to do that, and that's what they've done with their advertisements. There's nothing wrong with doing that, but at the same time, yes, there is the possibility of some, as it were, perhaps self-interest directing the public opinion.

I can assure you, however, that I've done two other surveys. In fact, in my most recent householder that was distributed to all my riding, I put in a question about the mayors on council and I tried to formulate the question in as neutral a manner as possible. I simply said: "Under Bill 77"—that was the number of the bill at the time—"the mayors are going to be dropped from council. How do you feel about this? Do you agree very much, agree somewhat, disagree, or disagree very much?"

I haven't received all the responses yet, they're still coming in, but from what has come in so far, about one third are in favour, but two thirds of the responses—and these are certainly non-controlled responses: These are these tear-off things at the end of my householders. You fill that out and you send it in, so I have no control whatsoever over who fills that out. The way they're coming in is that two thirds are very much opposed. They're not just opposed, they're very much opposed, and that should tell you something about the feeling that is out there.

You see today those two documents that were distributed. If you get a chance, and I hope you do, read this today, because I'm very impressed with the quality of these presentations on such short notice. The people have put down in a very well-argued, forceful and very detailed manner the opinions. I had nothing whatsoever to do with these two exhibits that are in front of us, but they certainly, and I'm just using these as an example, speak to the feeling that in my community and in other communities—as I said, if the member for Carleton were here, I'm sure he would say the same thing about the people in his area. We are proud of the accomplishments of our local government and we're extremely concerned that we are going to lose the quality of the government that we have had. That's what we're concerned about.

I was referring to the surveys I have been doing in my riding, the most recent survey. I also did one last year. Yes, again people said, "We are prepared to look at regional reform." They didn't say, "No, we don't even want to touch it." They said, "Yes, we're prepared to look at it, as long as it saves us something; as long as, from a financial perspective and from a cost perspective, it can be shown to us that it's going to be of benefit to us."

The government certainly hasn't shown that it's going to save us money. In fact, all the evidence that is there and that was clearly put forward on the record last weekend shows that it's just the opposite. It's going to cost us more, certainly in Nepean, and it's not only going to cost us more, it's going to cost us a lot more. So why in the world would you push that on us? That's really the point.

I just want to say to the parliamentary assistant, if he is trying to colour the responses that are coming from Nepean—I mean, he congratulated me as well on Saturday, saying I did a very good job. Of course, what he meant is that I organized the presenters who came to the hearings. Well, I can tell you I didn't organize that. The people who came spoke from the heart and spoke for the people of Nepean, and that's the true feeling out there. As I said, there are some people who are in favour; about one third of the responses so far are in favour. But two thirds, and that's more than the majority, are opposed, and they're very much opposed.

**Mr White:** Mr Daigeler, I think you're being overly modest again. Very clearly, from the number of letters and coupons that were sent to the ministry, your constituents have written much more frequently than anyone else's. The member for Carleton is a very able, long-term member of this assembly and has done a very competent job on this area as well, but I think you have done a far better job in terms of actually producing the number of educated constituents who have taken an interest in this issue under your leadership and that of the mayor and councillors of the city of Nepean. I think you should be commended for being involved and articulate on such an important issue to your council.

1140

**Mr David Johnson:** This is about as thick as it can get.

**Mr Daigeler:** Clearly I've worked hard on this, as I



think you all know. I mean, I've spoken enough in the House of this. I've worked hard on this because of the people in my riding, and I don't think the parliamentary assistant has got the message. Certainly the minister hasn't, because whenever he spoke in the House, he was talking about the Ottawa-Carleton Board of Trade, he was talking to people who are from Ottawa as the people who are in favour.

But I think it's obvious still that the parliamentary assistant feels it's all orchestrated by myself. I just want to put on the record very clearly that what I'm conveying here is the strongly held view of my constituents, and you're in error if you think that is simply due to the work that I did on this matter and that if I hadn't done that work, the people wouldn't feel as strongly. I can tell you what I am doing is I simply am a mouthpiece for my constituents on the matter.

**The Vice-Chair:** No further discussion on section 1?

**Ms Sharon Murdock (Sudbury):** Section 1? I didn't think we had gotten to any clauses yet. The bill we want to discuss is so important, we still haven't gotten to clause-by-clause, and it's quarter to 12. I just thought I'd make that point for the record.

**The Vice-Chair:** Seeing no amendments on section 1, shall section 1 carry? Carried.

On section 2, we have several amendments.

**Mr Grandmaitre:** I move that subsection 5(1) of the act, as set out in section 2 of the bill, be amended by striking out "and" after clause (a), adding "and" after clause (b) and adding the following clause:

"(c) the mayors of each area municipality."

We would like to see the mayors included in the new regional council. As pointed out in our opening remarks, we feel the presence of the mayors on this new regional council is important. They are the link between our local municipality and regional government.

I realize that we will have regional representation from regional councillors, but again I want to point out, Mr Chair, that the presence of the mayors of Ottawa-Carleton should be included in this section for the simple reason that 10 municipalities in Ottawa-Carleton are asking the minister to include the mayors on regional council so that they could feel much more at ease that they will be represented by a person with the authority to make changes and also to deliver the local message to the upper-tier level.

**Mr David Johnson:** I have not ever opposed direct election. When direct election was being discussed in Metropolitan Toronto, I was one of the people who did support that, because I felt that there certainly is a need for the people to have representatives who are directly accountable to them in an election if those representatives are having responsibility for services or tax dollars, particularly when we look at the services and tax dollars that do come from a regional government.

In the case of Ottawa-Carleton, I think we're talking in the neighbourhood of \$1 billion, and in the case of Metropolitan Toronto, it's about \$3.5 billion in services such as public transit, policing, water supply, major roads etc.

What I find confusing is why the model that is here in Toronto and in all other municipalities, all other regions, where the mayors, in addition to directly elected councillors, do serve on the regional council, is considered so inappropriate for Ottawa-Carleton. Some people seem to have the view firmly embedded in their brains that if you have directly elected councillors, then you cannot have the mayors, that that sort of throws the whole equation out the window.

I don't even know what the rationale is behind that. I wish somebody could tell me what the rationale is, why it is that the mayors sort of pollute the political environment with their involvement. It has something to do with rep by pop, I gather, although when we talk of rep by pop in terms of ridings in the province of Ontario, nobody has any concern at all that we have provincial ridings with 20,000 or 30,000 people and we have other provincial ridings with 150,000 people.

Nobody is the least bit concerned about that, yet if rep by pop is out a little bit in the Ottawa-Carleton area, that is a horrendous situation which could not be allowed to carry on. At the federal level we have Prince Edward Island with four representatives, I think, which is way out of whack, yet I don't hear a great clamour about Prince Edward Island having too many representatives. They don't seem to be concerned about rep by pop anywhere except in the Ottawa-Carleton region.

Indeed, we had one of the mayors before us; I'm just trying to think of his name now. At any rate, he made a presentation on behalf of the mayors indicating that in many regions through the province of Ontario, the rep by pop situation is out a great deal more than it would be here in Ottawa-Carleton. Al Bouwers it was. He made the presentation indicating that situation right across Ontario.

To put the full weight of not having the mayors on the regional council because of this issue of representation by population is just astounding. It doesn't line up with what's happening in the rest of Ontario; it doesn't line up with what's happening with provincial boundaries; it doesn't line up with what's happening with federal boundaries. It's certainly one of the ingredients that has to be considered, but everywhere else you look there are exceptions.

For some reason or another, this region absolutely cannot be an exception. I don't quite understand that, given the history and the good government that has existed in this region in the past. I just totally fail to understand why the government is so opposed to having the mayors on the regional council. Maybe the parliamentary assistant can try one more time to enlighten me on that.

I can tell you some of the benefits of having the mayors on the regional council, having been one of those mayors myself on the regional council in this municipality. There are issues that involve both levels of government: planning issues, transportation issues during negotiations, for example.

It's necessary for the municipalities to understand the issues, and the mayors get involved with that, I can tell you. It's necessary for the regions to understand so they don't put things on the table, the various municipalities,



that impact on one another. Waste management is another issue that involves a tremendous amount of cooperation between local municipalities and regional municipalities. There are just all sorts of issues that crop up.

What we have is not two distinct levels of government. We have two governments in the same area. They're both municipal governments. They have to work together very closely. When people in a questionnaire are saying they want one-tier government, I firmly believe what they're really saying is they want less expensive government, because our government today is too expensive, and that's all levels of government.

1150

If you're not going to go to a one-tier government—and certainly, at this point I'd say it's an excellent choice, because the Price Waterhouse study outlining the costs of one-tier government I would suspect is bang on, that the one-tier government would be more expensive—but if you're not going to go to that, then you have to set up a mechanism with the local government and the regional government, which are both municipal governments, so they'll work closely together in an efficient and effective manner for the people of the Ottawa-Carleton region.

By destroying any linkage between the two, and that linkage is the mayors, in one swoop you've guaranteed that these governments will not work together to maximum advantage. You've set them apart. You've ensured that there will be conflicts. As many of the deputants said on Friday and Saturday, there will be more of a parochial type of approach rather than working together in a cooperating kind of approach.

That happened in Winnipeg. We had an example of this in the city of Winnipeg many years ago, albeit in the 1970s, but that's exactly what happened. There was a structure set up where there was no representation, no linkage between the two councils, and what happened? Warfare broke out and the provincial government had to step in and institute one-tier government. Now there's an example of what happens. You have no successful model to point to. This is a shot in the dark. The only model to point to is the Winnipeg example in Canada, and it failed.

It's hard to understand how the government really wants anything else other than the one-tier government. What inevitably will happen is that this will fail because there will be the conflicts between the local council and the regional council. The only solution out of that will be to do away with one or the other and come up with a one-tier government. But if you sincerely want this to work, and you've said you do, then you need to put in place a structure whereby it will work and you need that linkage, and the mayors will provide that linkage.

I'll be supporting any motion here today which—and we'll have some ourselves; some are being duplicated, I think, at the present time—will establish that linkage. I think, given the two levels of government that we have, that will provide the most effective and efficient government at the least cost with the setup we have today. That's what the people of Ottawa-Carleton, when they were answering your polls several years ago, were really asking for. They're really asking for a government with the least cost.

**Mr Daigeler:** Obviously this particular provision is the most important one, I would say, and as was seen from the responses from Nepean, this is really the issue around which attention has been focused.

Frankly, I was very surprised that the current Minister of Municipal Affairs introduced this. I didn't expect him to do that because this wasn't in the air at all. It came really out of the blue, and I don't know where it came from. I can only surmise that the member for Ottawa Centre has something against the mayors, because really I don't think it's needed. Why the government would put this forward to just almost deliberately alienate the suburban municipalities is beyond me, because this wasn't really necessary and it's seen as a slap in the face towards the municipalities.

I think there was a willingness to have direct elections of the regional councillors, and even though in Nepean we've had direct elections, perhaps there would have been some willingness to accommodate the ward changes that go with it, but as long as there was at least some clear link between the municipality and regional council.

For the life of me, I couldn't understand why the current minister—I'm saying the "current minister" because I just don't think that Dave Cooke would have been as pushy on this and as aggressive on it as the current minister. Perhaps Mr Cooke knew more about the views in Ottawa-Carleton. I didn't get the sense from Mr Cooke, when he had that project, that he wanted to impose his own will on the area, but that's certainly what's happening here.

I'm very disappointed that the government is not moving an amendment along those lines, and I'm under no illusions. Our amendment won't carry, but I think it's very important that at least the amendment is there, because we have heard very, very clearly from all the area municipalities that this is very important to them.

You know, this question about rep by pop really is more than a red herring. I've never heard that being advocated and pushed since I've been around in Ottawa-Carleton, and it's a while ago. I was the provincial candidate as early as 1981. Rep by pop is all of a sudden coming to the fore as the greatest desire of the people in Ottawa-Carleton.

Well, it isn't. What is the greatest desire of the people in Ottawa-Carleton is a cost-effective and cost-efficient, responsible government. That's what they want and they feel that with the exclusion of the mayors they're going to lose some of that cost-efficiency that they've currently had and they're going to be stuck with some of the cost-inefficiency of the city of Ottawa. Dropping the mayors from that council is very clear evidence for that.

That's what they're worried about, and that's why they insist so much that the mayor be put back in Bill 143 on regional council, and that's why I hope there's a last-minute repentance. Perhaps the government will reconsider this by 4 o'clock. Who knows? There are still a few hours left.

**Mr David Johnson:** The other observation I'll make is that with government becoming very expensive, and certainly we're hearing this all over the place. There is a

great deal of concern about the cost of regional government. I think those members who were present saw the results of a poll.

Somewhere in this pile one of the citizens came forward and said that they tested the popularity of government in the Ottawa-Carleton area and they found that 76% of the people thought the local government was doing well. They were satisfied. Only 57% could say the same thing about the regional government. Those numbers would be reflected here in Metropolitan Toronto, and I suspect, if anything, the regional satisfaction rate may be a little bit less and the local satisfaction rate may be a little bit higher.

While the issue of accountability and the direct election is an important one and, as I say, it's always been an important one with me, you start to weigh off that if indeed the regional governments are becoming expensive to the degree that people are unhappy—you know, they're happy that they can elect their representatives directly, but they're unhappy with the cost—then something is going to have to be done.

I don't think we should just simply dismiss the Price Waterhouse study, because I think there's a lot of merit in there that when you get into a bigger and bigger government—perhaps the federal government is the best example of that—there tends to be less control and the rates, for example, that are paid, the administration rates, where they estimated in the region that they paid \$65,000, I think, for administration.

The city of Ottawa was actually higher. It was I think closer to \$70,000 average salary for people involved in administration, whereas in the area councils it was about \$42,000 or \$43,000, I think, if my memory is correct. Now, obviously in some of the area councils they're performing perhaps less onerous duties, but it does show that bigger government tends to have a tough time controlling its cost. Certainly if you ask people to point their finger at a level of government that they may not be getting the best value out of, they will put their finger on the regional government.

I don't know what the answer to that is. Certainly there have been a number of suggestions, more and more, that we should eliminate regional governments, which is easy to say, not quite as easy to do, I think. I firmly believe we're coming to a point where we have to look at new models of local governments, because the ones we have in place right now are just becoming too expensive, not only in Ottawa-Carleton, not only in Metropolitan Toronto, but everywhere.

I think to some degree this may be a watershed case in that obviously you're going to push this through, but my suspicion is that this may be one of the last cases where we look at strengthening regional governments. In the future, we may be looking at putting more of the services and duties down to the lowest level of government that can perform it, which is the local councils, because certainly in the eyes of the people, and I think when you look at the budgets, those local councils perform those duties in a less costly way than do the regional councils.

**The Vice-Chair:** If I may, Mr Johnson, it's 12 o'clock. You can have the floor when we come back.

**Mr Daigeler:** Time really flies.

**Ms Murdock:** Time flies when you're having fun.

**The Vice-Chair:** Just a note to the members—

**Ms Murdock:** You didn't have time to get to clause-by-clause.

**The Vice-Chair:** Ms Murdock. A note to the committee members: The clerk will have a full package in order of the amendments when we resume immediately following routine proceedings. This committee stands recessed.

*The committee recessed from 1202 to 1539.*

**The Chair:** I call the committee to order. We were in the process of debating Mr Grandmaitre's motion.

**Mr Robert Chiarelli (Ottawa West):** Why don't we just start voting on everything?

**Mr David Johnson:** Mr Chair, given the limited period of time we have to deal with this today, I would go along with the suggestion of Mr Chiarelli that we essentially get into the voting, and let's get through all the amendments we can. Hopefully, we can deal with all these amendments today. There are some excellent amendments in here and I know the government is anxious to support a number of these, so perhaps we can now just proceed through as quickly as possible.

**The Chair:** Okay, Mr Johnson. No further discussion on Mr Grandmaitre's motion? All those in favour?

**Mr Grandmaitre:** A recorded vote, Mr Chair.

**Mr Chiarelli:** Yes, all recorded votes.

**The Chair:** All recorded votes. The procedure under the motion as it was before the House and which we have to operate under is that we can do recorded votes until 4 o'clock, and then we have to defer recorded votes. Okay?

**Mr Chiarelli:** We can get all the votes in by 4 o'clock.

**The Chair:** Up until 4 we can proceed as we normally do.

*Interjections.*

**Mr David Johnson:** All in favour.

**The Chair:** Yes, I've asked that already. All in favour of Mr Grandmaitre's motion?

**Ayes**

Chiarelli, Daigeler, Grandmaitre, Johnson (Don Mills).

**The Chair:** All those opposed?

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated. We then move to PC motions and Mr Johnson.

**Mr David Johnson:** I move that clause 5(1)(b) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"(b) one regional councillor for each regional ward established by the regional council, elected for each regional ward by the electors of the ward; and

"(c) the mayor of each area municipality other than the village of Rockcliffe Park."



I think it's self-explanatory. This is in fact the motion that was supported by the regional council itself and by all the municipalities, as I understand it, except the city of Ottawa. Even the village of Rockcliffe Park agrees with this resolution.

**The Chair:** Any further discussion? Seeing none, all those in favour of Mr Johnson's motion, please indicate.

**Ayes**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** All those opposed?

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated.

**Mr David Johnson:** I move that clause 5(1)(b) of the act, as set out in section 2 of the bill, be struck out and the following substituted:

"(b) one regional councillor for each regional ward established by the regional council, elected for each regional ward by the electors of the ward; and

"(c) the mayor of each area municipality other than the village of Rockcliffe Park who shall, despite subsection 8(2), have one-half vote."

This I call the minister's motion because, as you recall, this is precisely what the minister, Mr Philip—and it's too bad he's not here today. I'm sure he would support this, because this is what he put forward last November as the compromise solution to include the mayors. It says the mayors will be on the regional council, other than the mayor of the village of Rockcliffe Park, but the mayors will only have half a vote on the council. The minister put this forward, I believe, in good faith in November on the basis that this would be a compromise. It would keep the mayors on as a linkage, but they wouldn't have the same number of votes as the directly elected councillors. As the minister isn't here today, hasn't been able to join us, is involved in other key activities, I've taken the—what's the word?—privilege of putting this forward on his behalf.

**Mr Grandmaître:** As the minister is absent today, I'd like to ask the parliamentary assistant, why did the minister or the ministry change its mind?

**Mr White:** Thank you, Mr Grandmaître, for that excellent question. As Mr Johnson noted, this was a compromise endeavour that was to be in place only for a very short while and was a matter of negotiation in regard to the previous Bill 77. As a government, of course we're always open to negotiation, to meeting with folks and to working things through. However, a compromise or negotiation requires two sides. The mayors were not willing to accommodate the passage of Bill 77 and I understand were not willing to speak to their members to assure fast passage last fall. So that offer was withdrawn, and it was, as Mr Johnson said, only a matter of compromise and negotiation in the fall.

**Mr Grandmaître:** What you're telling me is that the mayors turned down the minister. Is that what you're really telling me?

**Mr White:** Excuse me a second.

**Mr Chiarelli:** That's a tough one.

**Mr David Johnson:** Don't say anything incriminating.

**Mr White:** I understood that your own House leader and your own members were in opposition to this, Mr Grandmaître. This issue was part of the compromise. It's not simply a matter of the mayors alone but also your own colleagues in the House.

**Mr Grandmaître:** As the parliamentary assistant knows, my House leader has no control over the government's House leader. It's your agenda. We don't control your agenda. My question is a very simple one: This offer was made to the mayors and the mayors turned down the minister?

**Mr White:** We're not talking about our House leader but also yours.

**Mr Grandmaître:** Never mind your House leader. I'm asking about the minister and the ministry. Why was it turned down? The minister made them, I suppose, a legal offer. Why was it turned down? I'm asking you, was it the mayors? Did the mayors turn down the minister?

**Mr White:** I wasn't a party to those negotiations. My understanding is that this is part of the compromise that wasn't fully negotiated and that this offer was not accepted. An offer was put forth that said, "We can do this for a short while if we can get secure passage of the bill," to the opposition, to the local municipalities, "and if there is not an agreement when this offer is made that this passage is guaranteed or at least spoken to, that offer is withdrawn." That was part of the agreement. But that offer is not on the table at the moment. I appreciate that Mr Johnson's really only wishes to help the minister, but unfortunately, at the moment that help's unnecessary.

1550

**Mr Grandmaître:** He is the best critic, after all, the minister told him. My question is a very simple one. The minister made this offer prior to consulting with the House leaders. Now you're telling me that because the House leaders didn't agree, that's why he pulled this offer. This is what you're telling me?

**Mr White:** What I'm telling you is that we had an offer that was available for one term only, the 1994 to 1997 term, and the offer was not accepted. The issue is that Mr Johnson is attempting to assist us in this regard and I'm sure we'll inform the minister. In any case, we certainly very much appreciate his assistance, but it's no longer necessary, seeing as that offer is not on the table. Thank you, Mr Johnson.

**Mr Grandmaître:** I'm sure my colleagues will want to follow up on this one.

**Mr Chiarelli:** I guess the final result of this bill is going to be that it represents the snit of the minister. He was prepared to consider the mayors on in some form, and now that we've had significant public hearings dealing with that very issue and we likely have agreement on the part of the opposition to have the mayors on in some form, because the minister didn't get his way in November or December, he's simply saying to the people of Ottawa-Carleton, "You didn't accept my offer then, so



it's not on the table any more." That's a hell of a way to run a government and run a ministry, and it's a hell of a way to run roughshod over an area.

Quite frankly, if the minister was prepared to discuss the mayors on in some form, presumably there's some rational reason for the mayors to be on. Notwithstanding that, I guess we should just get on with the vote and let things fall into their normal place.

**Mr Daigeler:** I don't think the PC motion here is at all the same as what you are saying the minister offered in a grand gesture to the mayors. You said yourself that he said for one term. This is not in this motion; it's something very different.

Second, I'm not aware that there was any kind of formal offer or anything like that to the mayors. The minister never even came to Nepean and made any kind of presentation whatsoever. You're saying an offer was made. First of all, even if it was made, it was for one term, which is clearly not acceptable, and nobody argued for that position at the public hearings and nobody in the numerous written submission we've received argued for that position. Clearly that's not an option that was proposed by the Ottawa-Carleton area. But again, this is not the motion we have in front of us anyway.

**Mr David Johnson:** I'll be supporting this motion because I wouldn't want the people in Ottawa-Carleton or the mayors to think the minister's suggestion in November was insincere. It was put forward in good faith, so I will be supporting the minister's motion here today.

**The Chair:** All in favour of Mr Johnson's motion?

**Ayes**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** Those opposed?

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated.

The next motion stands in the name of Mr Chiarelli. I've been advised that it's out of order as it is exactly the same as the first motion from the Liberal Party, which was defeated, that stood in the name of Mr Grandmaître.

The next Liberal motion?

**Mr Grandmaître:** I move that section 5 of the act, as set out in section 2 of the bill, be amended by adding the following subsections:

"Referendum

"(3) The regional council shall in the 1994 regular election place on the ballot the question as to whether the mayors of the area municipalities should be members of regional council and if so, whether they should have one vote per mayor or one-half vote per mayor.

"Result

"(4) If the response to the question is in the affirmative, the mayors shall continue to be members of the regional council and despite subsection 8(2) the votes of the mayors on regional council shall be as determined by the referendum.

"Same

"(5) If the response to the question is negative, despite subsection (1), the mayors shall not be members of the regional council."

What this motion says is very simple: In 1994, a referendum should be held in Ottawa-Carleton at the same time as the regular election to determine the fate of the 11 mayors: Should they sit on council? Subsections (4) and (5) simply give them the power to vote because of the affirmative or negative result of the referendum. What I'm saying is very simple: I would like to have a referendum to decide the fate of the mayors in Ottawa-Carleton.

**Mr David Johnson:** There's something familiar about this motion, Mr Chairman. At any rate, without getting into that, this concept was raised by Councillor Wilkinson of the city of Kanata. In her presentation, those who were in the Ottawa-Carleton region in Ottawa for the deputations will recall, Councillor Wilkinson, an excellent councillor, put this suggestion forward, this very suggestion. I had originally anticipated putting it forward myself. The next motion we have delays until the year 1997 in terms of the referendum; we did have a little feedback on Monday that it may be a bit of a problem to do this referendum in 1994. However, it's an interesting concept and I think a good idea, and notwithstanding there's a little concern about whether it may work this year, it's possibly a good way to look at dealing with this issue of the mayors and I'm going to support it.

**Mr Daigeler:** We have heard even from those who are very opposed to this initiative that they would certainly support the idea of a referendum on the mayors, whether they should be on or off. I thought the proposal by Marianne Wilkinson was a very good one in the way she phrased it, and I think that's reflected in this motion. This motion reflects the desire of a lot of people. If you look at the written submissions we've received, they do argue that in case the government does not accept the motions we put forward earlier, they hope they will at least accept the idea of a referendum and let the people decide. That's what this motion is all about. Given the democratic intentions of the New Democratic Party, I would hope they will support it.

**The Chair:** Any further discussion? All those in favour of Mr Grandmaître's motion, please indicate?

**Ayes**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** All those opposed?

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated.

1600

It is 4 pm. I will refer to the motion in the House and I'll read from it: "At 4 pm on that day, those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all

remaining questions have been put and taken in succession with one 20-minute waiting period allowed pursuant to standing order 128(a)."

Is it the committee's wish that they would like a 20-minute recess now or shall I wait until you request one?

**Mr David Johnson:** I hear the words but I'm not sure I understand precisely what they mean. Does that mean you're going to put—

**The Chair:** Every question, every amendment, every section of the bill without debate.

**Mr David Johnson:** Without debate. And that includes explanation?

**The Chair:** Yes.

**Mr David Johnson:** I'd suggest, if somebody asks for a recess, then we have it, but otherwise we just do it.

**The Chair:** If the committee wishes to request one now, they can request one. You're entitled to one. It's up to you whether you want to use it now or later on. You're going to be here for a while.

**Mr David Johnson:** Well, we're just going to go through and vote on these. I don't think it'll take that long.

**The Chair:** That's fine with me. I've advised you. I await your guidance.

**Mr David Johnson:** These votes are not recorded, or are they? Okay, they can be recorded.

**The Chair:** You've asked for all recorded votes.

**Mr David Johnson:** Good. Carry on. So we've got PC 6, an excellent motion. Oops, that was debate. I got some debate in there.

**The Chair:** We are on PC motion number 6. All those in favour, please indicate.

**Ayes**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** All those opposed?

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated.

We are on Liberal motion number 7. All those in favour, please indicate.

**Ayes**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** All those opposed, please indicate.

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated.

We are on Liberal motion alternative to 2(a). Technically, it's out of order. Liberal motion number 8 is out of order.

We're on PC motion number 9. All those in favour, please indicate.

**Ayes**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** All those opposed?

**Nays**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** The motion is defeated.

We're on PC motion number 10.

**Mr David Johnson:** It relates to number 9, I believe, so I guess it's out of order. I look for advice from staff, but 10 goes with 9, and as 9 didn't go, 10 doesn't make any sense.

**The Chair:** That motion is withdrawn.

Shall section 2 of the bill carry? All those in favour?

**Ayes**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** All those opposed?

**Nays**

Chiarelli, Daigeler, Grandmaître, Johnson (Don Mills).

**The Chair:** The section carries.

We move to section 3 of the bill. Government motion number 11: All those in favour of the motion, please indicate.

**Interjection:** How about, "Same vote as before"?

**Clerk of the Committee:** It's better to have the names.

**Ayes**

Cooper, Murdock (Sudbury), Waters, White, Wilson (Kingston and The Islands), Wood.

**The Chair:** All those opposed?

**Mr Grandmaître:** Same vote.

**Ms Murdock:** You don't want this recorded? Same vote recorded?

**Mr Chiarelli:** Yes, recorded.

**The Chair:** The motion is carried.

Shall section 3 of the bill, as amended, carry? All those in favour? Those opposed? The section is carried.

We move to section 4 of the bill. Shall section 4 of the bill carry? Those in favour? Opposed? The section carries.

Section 5 of the bill, PC motion 12: All those in favour, please indicate. Those opposed? The motion is defeated.

PC motion number 13: All those in favour? Those opposed? The motion is defeated.

Liberal motion number 14: All those in favour, please indicate. Those opposed? The motion is defeated.

PC motion 15: All those in favour, please indicate. Those opposed? The motion's defeated.

PC motion number 16: All those in favour? All those opposed? The motion's defeated.

PC motion number 17: All those in favour? Those opposed? The motion is defeated.

Government motion 18: All those in favour, please indicate. Those opposed? The motion is carried.

Shall section 5 of the bill, as amended, carry? All

those in favour? Those opposed? The section carries.

Shall section 6 of the bill carry? Those in favour? Those opposed? Section 6 of the bill carries.

Section 7, Liberal motion 19: All those in favour, please indicate. Those opposed? The motion is defeated.

PC motion number 20: All those in favour, please indicate. Those opposed? The motion is defeated.

Shall section 7 of the bill carry? Those in favour? Those opposed? The section carries.

Shall section 8 of the bill carry? Those in favour? Those opposed? Section 8 carries.

Section 8.1, Mr Chiarelli's motion number 21: Shall Mr Chiarelli's motion carry? Those in favour? Those opposed? The motion is defeated.

PC motion number 22: The PC motion has been defeated; it's the same as Mr Chiarelli's motion.

Shall section 9 of the bill carry? All those in favour? Those opposed? The section is carried.

Shall section 10 of the bill carry? Those in favour? Those opposed? The section carries.

Shall section 11 of the bill carry? Those in favour? Opposed? The section carries.

Shall section 12 of the bill carry? Those in favour? Opposed? The section carries.

Shall section 13 of the bill carry? Those in favour? Those opposed? The section carries.

Shall section 14 of the bill carry? Those in favour? Those opposed? The section carries.

Section 15 of the bill, PC motion number 23: Those in favour, please indicate.

**Mr White:** What we have is an amendment to section 14, number 23.

**The Chair:** It's called a typo; it should be 15, not 14.

PC motion number 23, section 15 of the bill: Those in favour? Those opposed? The motion is defeated.

PC motion number 24: Those in favour? Those opposed? The motion is defeated.

Shall section 15 of the bill carry? All those in favour? Those opposed? The section is carried.

Section 16, Liberal amendment number 25: Those in favour? All those opposed? The motion is defeated.

Shall 16 of the bill carry? Those in favour? Opposed? The section carries.

Section 17, PC motion number 26: Those in favour, please indicate. Those opposed? The motion is defeated.

Shall section 17 of the bill carry? Those in favour? Opposed? The section carries.

Shall sections 18 to 29 of the bill carry? Those in favour? Those opposed? Sections 18 to 29 carry.

Shall the title carry? Those in favour? Those opposed? The title is carried.

Shall the bill, as amended, carry? Those in favour? Those opposed? The bill, as amended, carries.

Shall I report the bill? Those in favour? Those opposed? Report the bill.

Thank you very much. That having been done, the committee is adjourned.

The committee adjourned at 1614.

## ERRATUM

No.	Page	Column	Line	Should read:
R-26	R-605	1	4	<b>Mr Haggis:</b> Yes, he is. He is appointed.





## CONTENTS

Wednesday 20 April 1994

**Regional Municipality of Ottawa-Carleton and French-language School Boards Statute Law Amendment Act, 1994, Bill 143, *Mr Philip* / *Loi de 1994 modifiant des lois concernant la municipalité régionale d'Ottawa-Carleton et les conseils scolaires de langue française*, projet de loi 143, *M. Philip* . . . . . R-807**

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Huget, Bob (Sarnia ND)
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)
  - Conway, Sean G. (Renfrew North/-Nord L)
  - Fawcett, Joan M. (Northumberland L)
  - Jordan, Leo (Lanark-Renfrew PC)
  - Klopp, Paul (Huron ND)
- \*Murdock, Sharon (Sudbury ND)
  - Offer, Steven (Mississauga North/-Nord L)
  - Turnbull, David (York Mills PC)
- \*Waters, Daniel (Muskoka-Georgian Bay ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
- \*Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Daigeler, Hans (Nepean L) for Mr Offer  
Chiarelli, Robert (Ottawa West/-Ouest L) for Mrs Fawcett  
Grandmaître, Bernard (Ottawa East/-Est L) for Mr Conway  
Johnson, David (Don Mills PC) for Mr Turnbull  
Tilson, David (Dufferin-Peel PC) for Mr Jordan  
White, Drummond (Durham Centre ND) for Mr Klopp

#### **Also taking part / Autres participants et participantes:**

White, Drummond, parliamentary assistant to Minister of Municipal Affairs

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Mifsud, Lucinda, legislative counsel



R-36

R-36

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 22 June 1994

# Journal des débats (Hansard)

Mercredi 22 juin 1994

Standing committee on  
resources development

Comité permanent du  
développement des ressources

Subcommittee report

Rapport de sous-comité



Chair: Bob Huget  
Clerk: Tannis Manikel

Président : Bob Huget  
Greffière : Tannis Manikel

*50th anniversary*

*1944–1994*

*50<sup>e</sup> anniversaire*



### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal des débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Wednesday 22 June 1994

Mercredi 22 juin 1994

The committee met at 1559 in committee room 1.

## SUBCOMMITTEE REPORT

**The Chair (Mr Bob Huget):** The subcommittee on resources development met on Monday, June 20, 1994, and recommends the following with respect to Bill 165, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act.

"(1) Pending agreement with the House leaders, that the standing committee on resources development hold three weeks of public hearings and one week of clause-by-clause consideration on Bill 165 commencing in August.

"(2) That the first week of hearings be held in Toronto commencing on Monday afternoon, 22 August 1994, with background briefing by the minister or parliamentary assistant and ministry staff. The week of 29 August 1994 will consist of travel to London, Ottawa and Sault Ste Marie. The week of 5 September 1994 will be held in Toronto commencing on Tuesday afternoon. The week of 12 September 1994 will be set aside for clause-by-clause consideration of the bill commencing on Monday afternoon.

"(3) Witnesses will be allotted half-hour time slots consisting of 15 minutes for their presentations and 15 minutes for questions from the members.

"(4) The clerk of the committee shall place an advertisement in all daily newspapers in Ontario and in the French daily.

"(5) Scheduling will be done by the clerk and the Chair on a first-come, first-scheduled basis.

"(6) Caucus witness lists must be submitted to the clerk of the committee by Thursday 30 June 1994. Every attempt will be made to accommodate all witnesses.

"(7) That any requests for reimbursements for witness travel expenses be brought to the subcommittee for approval.

"(8) That the researcher prepare as complete a summary of recommendations as possible."

That's the recommendation of the subcommittee.

**Mr Steven Offer (Mississauga North):** Just a couple of points that I don't think have to change this, but my understanding on (3) is that we hadn't agreed that the half-hour time slots were going to consist of 15 minutes with 15 minutes, but rather that there was going to be a suggestion to the presenters that it would be good for the committee if they would keep their 30 minutes to a 15-minute presentation. This looks a bit more definite, and I don't believe the subcommittee actually suggested

that. If somebody wants to chat for 30 minutes, that will be their call, but I thought it was just a suggestion by the committee that we would like it if they might want to consider that. If that be the message of (3), that's fine.

**The Chair:** That's exactly what it's supposed to really say there, although the wording doesn't really reflect that and I can appreciate it. Basically, what we're going to do is encourage the witnesses to use that half-and-half process for their technical presentation and a significant amount of time for dialogue with committee members. That will be communicated by letter to the witnesses, that we're going to encourage them to do that to allow for the type of discussion we agreed to.

**Mr Offer:** And on (5), the scheduling, I believe it was the discussion that the members put in the hands of the Chair and the clerk their expectation, if not hope, that if there's a huge number of requests, there would be a balance, as best as could be achieved, in terms of the presentations. I think that's different from "first-come, first-scheduled basis." In other words, if you get a whole group of people who are totally opposed to the legislation, they would necessarily shut out those who are in favour. I thought there was some suggestion that a balance, if at all possible without causing any injustice, would be achieved.

**The Chair:** Yes, and it's not reflected here, although I agree with you—we discussed that—that every attempt will be made for us, as much as possible, to ensure there is a balanced presentation every day. We can't guarantee that, but we certainly want to work towards that.

**Mr Offer:** That wouldn't be "first-come, first-scheduled." You can't have that, because that takes it out of your hands; you just become a time clock.

**The Chair:** But we have some ability to look at the witnesses and determine whether they're for or against this bill. In some cases, that's not possible, but we can try and do that and then use the scheduling slots we have to make sure there is some kind of balanced flow to the day.

**Mr Offer:** I'm just trying to bring forward that I think it was the intent of the subcommittee that they were going to put that decision-making in the hands of the clerk and the Chair in terms of, as best as possible, achieving a balance of presentations.

**The Chair:** That's my understanding, and that's what we're going to attempt to do.

**Mr Gary Wilson (Kingston and The Islands):** But it should be in the wording. Isn't that what you're after?

**Mr Offer:** First-come, first-served doesn't give them that discretion.

**Mr Gary Wilson:** I agree.

**Mr Offer:** If you took the words "scheduling will be done by the clerk and the Chair," period, I'm a little more comfortable with that as opposed to "on a first-come, first-scheduled basis," because I think that brings the intention of the subcommittee to this.

**The Chair:** We can make that change.

**Mr Offer:** The last thing I want to say is on (2). It was understood that the hearings would commence on the Mondays in the afternoon at 2 and that the final presentation would be commencing at 4; that the mornings would be commencing at 10 and completing by noon; and we recognize that there might be a need for flexibility in that area. That would hold for the Toronto situation, where we'll be for three of the four weeks, two for public hearings and one for clause-by-clause; that we'll be starting the Mondays at 2 o'clock and ending at 4. The travelling was still flexible; we just didn't know when it would start and where. And we were trying to get into the Amethyst room.

**Mr Gary Wilson:** I wasn't quite sure of the finish time. At one time, I thought you were saying the last one to begin at 4:30, but then you said over by 4. What are the hours? Is it till 5?

**The Chair:** Our understanding was that the last presentation would start at 4 o'clock, so therefore you'd be looking at 4:30.

**Mr Gary Wilson:** So it's over by 4:30 probably.

**Mr Offer:** We're basically going from 10 till noon, and from 2 to 4:30.

**Mr Robert W. Runciman (Leeds-Grenville):** We'd work a four-and-a-half-hour day.

**Mr Gary Wilson:** Set a model for the province. I like that, especially the productivity we can count on.

**Mr Offer:** I'm trying to bring forward what was said.

**The Chair:** So on (5) it will read, "Scheduling will be done by the clerk and the Chair," and we'll remove that "on a first-come, first-scheduled basis." Is that satisfactory? Fine.

**Ms Sharon Murdock (Sudbury):** I have a question on (7). Does "any requests for reimbursements for witness travel expenses" mean they would have to be requested, or would it be automatic? For instance, my concern in northern Ontario would be that for Thunder Bay presenters and Sudbury presenters having to go to Sault Ste Marie, would it be automatic? It doesn't say it would be automatic.

**The Chair:** The standard procedure is that it is never automatic. They have to approach the committee and

make a request to have their travel expenses reimbursed. That's the way it always is. In this particular case, what we've said is that the subcommittee would look at those requests as it receives them. Witnesses who have a need to be reimbursed for their travel expenses should be advised that if they need reimbursement they need to request it, and the subcommittee will deal with it.

**Mr Runciman:** I have a question about the advertising "in all daily newspapers in Ontario." What's the committee budgeted for that advertising exercise?

**Clerk of the Committee (Mr Todd Decker):** To place the standard advertisement in all the daily newspapers in Ontario, one insertion, runs around \$12,000.

**Mr Runciman:** It's not a lot when you look at a \$55-billion budget, but the Minister of Transportation just closed down a licensing office in a community in my riding using the argument that it was going to save \$10,000 a year, and we're prepared to spend \$12,000 on one ad in all the daily newspapers. It seems to me it's a penny-wise, pound-foolish approach in many instances.

I know this is a bigger question and I don't want to get into a full debate on this, but it's something the government should look at, perhaps cutting those costs in half by advertising in a regional paper. Why it is necessary to advertise in every daily paper in Ontario, I'm not sure. I know you want to make this notification as widely available as possible, but at the same time, there may be less expensive ways of achieving that. Food for thought.

**The Chair:** I appreciate your comments.

**Mr Paul Klopp (Huron):** I've heard those comments on other committees; I can remember when I first got here. Then you start saying, "Pick the ones in your area that you can get away with." But it's something I think we all should be aware of and doing our best every time. If you can find a way, I'll be for it, but in Huron county, you really haven't got any dailies or regionals unless you count London, and we already figure London never covers us enough anyway.

**The Chair:** I hear you.

**Ms Murdock:** I move adoption of the subcommittee report, as discussed.

**The Chair:** All in favour? Opposed? Carried.

The wording changes will be made. There will also be a reflection of Mr Offer's point in terms of scheduling of witnesses, as well as the hours of sitting from 10 to noon and 2 to 4:30, and that Monday afternoons we will start at 2 pm.

Thank you very much for your participation.

The committee adjourned at 1613.











## CONTENTS

Wednesday 22 June 1994

**Subcommittee report** ..... R-823

### STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**\*Chair / Président:** Huget, Bob (Sarnia ND)

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

Conway, Sean G. (Renfrew North/-Nord L)

Fawcett, Joan M. (Northumberland L)

Jordan, Leo (Lanark-Renfrew PC)

**\*Klopp, Paul** (Huron ND)

**\*Murdock, Sharon** (Sudbury ND)

**\*Offer, Steven** (Mississauga North/-Nord L)

Turnbull, David (York Mills PC)

Waters, Daniel (Muskoka-Georgian Bay ND)

**\*Wilson, Gary** (Kingston and The Islands/Kingston et Les Îles ND)

**\*Wood, Len** (Cochrane North/-Nord ND)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Runciman, Robert W. (Leeds-Grenville PC) Mr Turnbull

**Clerk pro tem / Greffier par intérim:** Decker, Todd

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service



R-37

R-37

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 22 August 1994

# Journal des débats (Hansard)

Lundi 22 août 1994

## Standing committee on resources development

## Comité permanent du développement des ressources

Workers' Compensation and  
Occupational Health and Safety  
Amendment Act, 1994

Loi de 1994 modifiant la Loi  
sur les accidents du travail  
et la Loi sur la santé  
et la sécurité au travail

Chair: Vacant  
Clerk: Tannis Manikel

Président : Vacant  
Greffière : Tannis Manikel



50th anniversary

1944–1994

50<sup>e</sup> anniversaire

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal des débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.





## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Monday 22 August 1994

Lundi 22 août 1994

*The committee met at 1405 in room 151.*

## RESIGNATION OF CHAIR

**The Vice-Chair (Mr Mike Cooper):** Our first order of business is, we have received the resignation of our Chair, Bob Huget, the member for Sarnia, who has now moved up to Minister without Portfolio. So I, as Vice-Chair, will be taking over, if there is no problem with that, even though I guess I should declare right now that I am parliamentary assistant to the Minister of Labour and this is a Labour bill, but I think in past practice as Chair of the standing committee on administration of justice, there shouldn't be any problem and I will remain impartial on this.

## SUBCOMMITTEE REPORT

**The Vice-Chair:** We have a report of the subcommittee. The subcommittee discussed a number of requests to make oral presentations and agreed to the following: (1) The hours for the committee to meet will be extended to 6 pm while the committee is meeting in Toronto; (2) the committee will meet on Monday evening, August 29, in London; and (3) the time for each presentation will be limited to 20 minutes.

**Ms Sharon Murdock (Sudbury):** So moved.

**The Vice-Chair:** All in favour? Opposed? Carried.

WORKERS' COMPENSATION AND  
OCCUPATIONAL HEALTH AND SAFETY  
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT LA LOI  
SUR LES ACCIDENTS DU TRAVAIL  
ET LA LOI SUR LA SANTÉ  
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 165, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 165, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

## MINISTRY OF LABOUR

**The Vice-Chair:** This meeting is to start the public hearings on Bill 165, and the first order of business is the Honourable Bob Mackenzie, Minister of Labour. Welcome.

**Hon Bob Mackenzie (Minister of Labour):** Thank you very much. Good afternoon and I appreciate the opportunity to appear before this committee to open public hearings into Bill 165. Today is an important step forward in our government's plans to reform and renew the Workers' Compensation Board.

Rather than try to evade the issue, as previous Ontario governments have successfully done for years, we're

tackling the issue of WCB reform head on. It's been a long and complicated process, but we have stayed the course and now the stage is set for Ontario to reclaim a leadership role in workers' compensation issues.

The bill before us, Bill 165, is just one element—although a very important element—of a reform effort that has been gathering momentum for the last two years. The other two components are internal reform at the board itself and a forthcoming royal commission to look at longer-term issues.

Our goal is to point the Workers' Compensation Board towards a brighter and more secure future. This is a future where the workers can count on fair and reasonable compensation for workplace injuries and a future where employers get top return on their assessment dollars.

In our efforts so far, we have received a great deal of assistance and cooperation from labour and management. Our government will be calling on that same spirit in the weeks and months ahead as our reform agenda for the board moves into high gear.

I think we all share a sense that the actions and decisions we make over the next 12 to 18 months will be extremely critical. There is a sense that we are breaking new ground as well.

Never in its 80-year history has the board been the subject of such scrutiny and review. Never before has there been such unanimous agreement that the board is in critical need of reform and renewal.

In other provinces, and other countries, the approach has all too often been to reform the compensation system by attacking pensions and benefits. Benefits have been cut in Manitoba and New Brunswick and at least one Ontario political party is on record as favouring the same approach here.

I can state categorically today that Ontario's first-ever social democratic government will not reform workers' compensation solely on the backs of injured workers.

Nor are we prepared to tolerate, as previous Ontario administrations have for too long, the mounting financial pressures facing the system. We believe there simply has to be a third option.

The bill this committee will review over the next three weeks has its genesis in the work done by the Premier's Labour-Management Advisory Committee over the last year. It contains significant, upfront change in a host of areas, including steps to get the board's finances back on the right track. When combined with the internal changes under way at the board, and the royal commission, we

believe we have struck the balance that is so necessary to drive reform forward.

Government cannot fix the Workers' Compensation Board by itself, of course. Our main responsibility is to oversee the operations of the board and the statutes that govern its operations. The primary responsibility for implementing reform and renewal will rest with the board itself; and with a revitalized board of directors, a new chair and a new president to manage day-to-day affairs, this is probably the board's best opportunity to make reform a reality.

Our government recognizes that beyond the individual stakeholders in the labour and business communities, a great public interest also exists in turning around the board's fortunes.

There is a growing feeling that the board is becoming a drain on Ontario's economy, on our ability to attract investment and jobs and spark business confidence. Whether or not these concerns are well founded, they cannot be denied. In this case, perception is reality. In moving ahead now with reform at the board, the government is recognizing and responding to these public concerns. So it is time now to understand how Bill 165, the royal commission and the internal reforms at the board all point towards this reform we are so determined to see.

Let me begin by reviewing the progress that the Workers' Compensation Board has been able to make on its own in recent months. We have appointed two veteran Canadian corporate executives to help the board through this important phase of its renewal.

A transition team under the leadership of former General Electric president William Blundell is guiding the board and preparing for the implementation of the many changes proposed in Bill 165. In terms of day-to-day management, interim CEO Kenneth Copeland, the former president of Digital Equipment of Canada, has given the board a strong sense of purpose.

Great strides have been made in improving service, detecting fraud and controlling administrative costs, and in the last few years the average duration of short-term claims has fallen by almost four weeks, from 16 to 12 weeks.

Last year, compensation costs were \$100 million less than 1992, even factoring in the decline in injuries; and the unfunded liability, perhaps the most serious problem facing the board, is also showing improvement.

As members may well know, this is a problem that began in the 1970s and really mushroomed in the 1980s under previous Ontario administrations. By the time we took office in 1990, the liability was increasing at the rate of more than \$1 billion a year. In 1991, our first full year in office, the unfunded liability actually rose almost \$1.3 billion. But since then, its rate of increase has dropped sharply. Last year, a little over \$400 million was added to the liability, a very far cry from just a few years earlier.

My point is that the situation has stabilized somewhat. And it's into this atmosphere of progress and optimism that we are introducing Bill 165, An Act to amend the

Workers' Compensation Act and the Occupational Health and Safety Act.

Bill 165 has as its foundations many of the elements of the PLMAC accord of last March. It is intended to redress several immediate and short-term problems afflicting the compensation board, while leaving the door open in other areas for the royal commission to study at greater length.

We have drafted the bill with balance and fairness uppermost in mind, knowing that it would be impossible to satisfy everyone on every score. Our government is hoping that all stakeholders will now move beyond their specific range of concerns to see that a compromise is the only way the public interest can be served.

At this time, I would like to summarize for this committee the main elements of Bill 165. We have proposed:

- That the act contain a purpose clause placing the goals of fair compensation, vocational rehabilitation and early return to work at the heart of the board's mandate.

- A requirement that the board of directors be bipartite and act in a financially responsible manner.

- A new emphasis on vocational rehabilitation and return to work.

- A \$200-a-month increase in pensions to approximately 40,000 older injured workers.

- Adoption of the Friedland indexing formula. This formula will index future pensions, with some notable exceptions, to a maximum of 75% of the CPI less 1%, with a cap of 4%.

As you can see, Bill 165 addresses some of the perennial problems of the Workers' Compensation Board down through the decades, such as service, finances and administration.

Under Bill 165, labour and management will have the power to shape and implement board policies and practices to a greater degree than ever before. Both stakeholders will truly own the system, with all that implies, for an effective and responsive Workers' Compensation Board.

Government of course will remain involved because we have primary legislative responsibility for the board. Take a look, though, at the planned changes in the board's governance and you will see the extent to which the workplace parties now have the authority they have been seeking for many years.

The board of directors will be truly bipartite in nature with equal numbers of worker and employer representatives. Their primary responsibility will be to act in a financially responsible and accountable manner and in the best interests of the board.

We are asking the new board to concentrate on strategic issues such as the goals, directions and policies of the WCB. Hence, the board will have authority to hire a president/CEO to manage the day-to-day affairs of the Workers' Compensation Board.

The transition team headed by Mr Blundell has made many sound recommendations to the government to help lay the foundation for reform inside the board. The



government has accepted these recommendations and has asked the board and the transition team to continue their preparatory work.

These changes, once implemented, will provide the board of directors with a definite understanding of its roles and responsibilities, especially in the all-important area of the board's finances. We will also emerge with a clearer separation of powers between the board and the government.

We are hoping that this revamped structure will allow some fresh thinking into the upper echelons of the board, and one of the areas where a new perspective is desperately needed is on the whole issue of vocational rehabilitation and early return to work.

It's my belief as minister that many workplaces continue to miss a golden opportunity to save money by getting their workers back on the job as quickly as possible. If we could improve our return-to-work figures by just 10%, I am quite convinced that the total savings would be in the billions.

#### 1420

Many workplaces are committed to professional disability management. I'm hearing from more and more of them almost on a weekly basis, and they are building in return-to-work programs. Bill 165 aims to encourage those workplaces remaining on the sidelines to get active in this area. Our proposed amendments include:

- That physicians, with the worker's consent, release prescribed medical information that will help employers and their employees plan for safe and early return to work.

- Clarifying the role of the board in enforcing existing re-employment obligations.

- Establishing a time-limited process for mediation and decision-making in matters that require resolution.

- Improving the board's incentive programs by measuring a broader and more meaningful range of workplace programs and practices.

It has been pointed out that this last proposal, as written, casts some doubt as to whether cost would remain a criterion for the board's experience-rating programs. I am satisfied that our intention here was never to exclude cost as a factor, but simply to establish in very explicit terms that, in the future, experience-rating programs would be broadened to measure health and safety, vocational rehabilitation and return-to-work practices.

However, I accept that the current wording has caused some confusion. As a result, I am announcing today that the government intends to amend the section as written to include employer accident cost and frequency as criteria for experience-rating programs.

Several other jurisdictions around the world, most notably Australia, have recognized that successful rehabilitation and early return to work reduce costs significantly.

The status quo represents an enormous economic and moral waste of human potential and expertise. My fervent hope is that by enshrining vocational rehabilitation and

return to work in the all-defining purpose clause of the Workers' Compensation Act, we can make further progress on both fronts here in Ontario.

As committee members know, however, it is not the return-to-work provisions in Bill 165 that have occasioned the most comment from WCB stakeholders. Rather, it is the financial aspects of the proposed amendments that have drawn the most attention. Depending on who is talking, we've gone too far or not far enough, so maybe now is the time to examine just what the financial impact of Bill 165 will be on the board's fiscal situation.

The government proposals, including adoption of the Friedland formula, return-to-work savings and the cost of new benefits for older injured workers, will save \$18 billion over the next 20 years.

The funding ratio of the board, an accounting term used to describe the percentage of assets available to cover future costs, currently stands at about 37%. Under Bill 165, that ratio will improve to a more comfortable 55% over the next 20 years.

When you add to this the strong new financial orientation of the board of directors, including the development of a plan to actually start paying down the unfunded liability, you have significant potential for further savings.

I know that some concern has been expressed that financial responsibility has not been written into the purpose clause of the act. Our thinking is that financial responsibility is not a "purpose" but rather an obligation to be directly placed on the members of the board. Not everyone agrees. As a result, the government will welcome any comments and suggestions that may emerge during these hearings to improve the current wording.

One of the administrative changes in Bill 165 concerns the funding of the Industrial Disease Standards Panel. The committee will hear a submission later this week from the panel proposing a different funding model. This proposal would result in a rather sizeable base funding increase.

The government cannot approve an increase of this size in this manner. We have told the panel that we are interested in working with them to resolve their budgetary issues to the satisfaction of all concerned, so I would just ask the members of the committee to keep that in mind.

That concludes a look at the bill's major financial features.

What sometimes gets lost in all of this accounting is that a compensation system is more than numbers and assets and bottom lines. It is, in the end, mostly about people receiving and relying on benefits and pensions to make ends meet. When you look at it this way, the board has failed thousands of Ontario workers who are living in virtual poverty due to minimal benefits from another era.

So yes, we are indeed going to supplement the pensions of 40,000 older injured workers by \$200 a month. These pensions, as well as survivors' and dependents' benefits, will enjoy full protection from inflation.

But don't be taken in by what you may have heard; this righting of past wrongs will hardly drive the Workers' Compensation Board into bankruptcy, and as one



who has fought all of his working life for working people, I know personally how great a concession the Friedland formula represents for injured workers.

For working people who are receiving benefits, the impact will be real enough in the months and years ahead. We owe it to them to bring these reforms to fruition as quickly and smoothly as possible.

I want to say I've spoken out strongly today because I believe it is important to dispel the doubt and confusion that is lingering about the real impact of these reforms.

As Minister of Labour, I acknowledge that there is still serious disagreement about where the Workers' Compensation Board should be heading over the longer term. When you think of the changes that have swept the workplace in the last five or 10 years, let alone since 1914, the need for a critical and professional re-examination of the board's mandate becomes more and more obvious.

Ontario in 1914 was resource-rich and a budding manufacturing giant, but those activities are no longer the twin pillars of our economy. The service and financial sectors have grown by leaps and bounds. There is a pronounced trend to non-traditional work arrangements such as part-time and stay-at-home workers. In 1914, there were few women in the workplace and certainly no other income-replacement schemes and health insurance options. As the work we do changes, so do our injuries. The system has had to deal with a variety of occupational diseases and work-related injuries unthinkable and unimaginable in 1914.

These are some of the reasons behind the Premier's decision to establish a royal commission into the future of the Workers' Compensation Board. The makeup of this commission will be announced shortly. It will have a wide-ranging mandate to review the current system, examine alternatives and make recommendations based on its findings.

I realize that workers' compensation is an emotional issue where otherwise rational minds on all sides can wander off into flights of rhetoric. It is also an issue that has the ability to cut to the heart of all the old divisions and suspicions between management and labour that were certainly so entrenched in my working days.

My feeling is that our best hopes for reform will come to naught unless labour and management confront and cast aside those old perceptions of each other. If both parties can realize how intertwined their interests really are, we will be that much closer to building a new compensation system that is both balanced and fair.

1430

We believe the new atmosphere at the board, in conjunction with Bill 165 and the long-term review by the royal commission, herald a new era for the Workers' Compensation Board.

I'd like to say that, having served in this House for almost 20 years and about 14 or 13 of them as Labour critic, I don't know another issue that's caused us as many problems and as much dissent as the issue of workers' compensation. I really believe that while we will not make everybody happy, we are on the road here with

this particular piece of legislation to some major changes that can see us start to turn this problem around.

I think the atmosphere at the board, as I said, in conjunction with Bill 165 and the long-term review by the royal commission really do herald a new era for the Workers' Compensation Board in the province of Ontario. I just hope that we can dedicate ourselves to refashioning for a new century that historic compromise that was originally made back in 1914.

I want to thank you very much for the opportunity to make the presentation here today.

**The Vice-Chair:** Thank you very much, Mr Minister. It's my understanding you'll be here for the remainder of the day. Mr Mahoney, the Liberal critic.

**Mr Steven W. Mahoney (Mississauga West):** Mr Minister, first of all, I'd like to welcome you back, particularly to the WCB wars. It seemed that the Premier perhaps had taken over the issue and there were rumours that you had gone away mad. I for one would never want you to go away mad.

**Hon Mr Mackenzie:** I'll take that with a grain of salt.

**Mr Mahoney:** I may want you to go away, but I wouldn't want you to go away mad. On the issue of workers' compensation, I think you raised some very valid points that we can all agree on. Out of the 130 MPPs in the province, it's my guesstimate that this is probably the number one issue in all of our constituency offices, perhaps trading places and leapfrogging with SCOE calls. But, generally speaking, workers' comp files in all of our constituency offices are quite full and quite active and quite ongoing.

As a result of that, when I became the Labour critic for our party, taking over from my colleague Mr Offer, we looked at trying to find some common solutions, believe it or not, Minister, in as non-partisan a way as possible to see if there were indeed some things that we could all agree upon.

We established an outreach tour. I've sent you a copy of the report. I note that—I don't know if it's accidental or not—some of the suggestions in that report have appeared in some media reports that you've made and even, to a certain degree, in some of the documentation. If we can take credit for that, that's great. But I think that really just proves the point that there is a lot of common ground around the issue of reforming workers' compensation.

I also found in the tour—we went to eight Ontario municipalities, met with injured workers, with advocates, with lawyers, with consultants, with management people; we really opened it up generally to the public to come and talk to us—that in every one of these outreach tour events, the similarities were quite profound.

The meeting would start out in the morning at 8 o'clock or 8:30 and you'd have the injured workers on one side of the room and they would be very tense, and you had the management people on the other side of the room. The tension between the two groups was quite palpable. A lot of mistrust existed.

By the end of the morning in every one of those

meetings, it was quite astounding to see the number of issues where full agreement occurred. My colleagues were at some of those meetings. We were able to identify the areas where there's probably never going to be total agreement, whether it was benefit levels or whether it was premium increases. There were really fairly few areas of total disagreement between business and labour. It was very helpful for me and, I hope, for everyone who was involved in that process to recognize the number of issues of common concern.

You made reference in your address, Minister, to the royal commission headed by Justice Meredith in 1914 and the status of the economy in this province in those days and how it's changed. Interestingly enough, we entitled our report *Back to the Future*. The symbolism of that name came from the fact that in 1914 what Justice Meredith proposed was probably quite revolutionary for those times, probably quite controversial for those times, and yet when you look at it in the context of today, it was quite brilliant too, a system where the worker would give up his or her right to sue the employer for an accident that occurred on the job site in return for proper compensation, rehabilitation and return to work. It seems like an even better idea in 1994 than it probably did in 1914. That principle taught me that the one thing we should be striving to do is to seriously fix a system that is not only broken but clearly is also broke.

I find it curious that the Premier would announce, almost in the same breath, a reform package, in the form of Bill 165 and a royal commission yet to surface, or at least fully surface, with any concrete plans. I would have to say, Minister, to you and to the Premier and to the government: "What exactly are you doing? You're tinkering again." I think there's enough blame in workers' compensation, by the way, for all three political parties and all governments in the past history to share. I don't lay all of the problems of workers' comp at your feet. You do happen to have the limo, however, and you do happen to have the opportunity to put in place some real reforms that will indeed improve the system. With respect, sir, I don't think this bill will accomplish what I believe you personally hope to accomplish, and that is to change the culture at workers' compensation to bring it into political accountability and financial sustainability for the protection of the injured workers.

I was very interested—and I don't know if this was a slip of the tongue, but somewhere in here the words didn't quite match. You added a word where you referred to—here it is here. "I can state categorically today that Ontario's first-ever social democratic government will not reform the Workers' Compensation Board on the backs of injured workers" is how it reads. What you said, and Hansard will show, is "will not reform the Workers' Compensation Board solely on the backs of injured workers." The addition of the word "solely" to that statement, in my view, is quite significant, because the agreement that you entered into through the PLMAC process was one that fell apart very rapidly, mainly because the Premier bailed out on the agreement that was made with the management caucus of that group to use the funding that was generated from the Friedland formula to pay

down the unfunded liability, to use that to cover the cost of funding the \$200-a-month supplemental pension and to not de-index the pensions for those workers and yet to de-index the pensions for other workers.

Look at this: You've got the workers who are on pensions saying, "You're funding the \$200 supplement by de-indexing my pension," and you've got management saying, "You're funding the \$200 supplement by using the Friedland formula where we had a deal to pay down the unfunded liability and you're going to spend it again." That, frankly, is part of the problem, Minister, that kind of tinkering and then using it for what I can only assume is political expediency. Talk about the injustice of the workers who are getting the \$200 supplement. I agree with you that there is an injustice there and it should be addressed, but why would you solve one problem with the management caucus of the labour-management advisory council, give that group some sense of confidence that you understood the problem to pay down the unfunded liability and then spend the money for what I can only assume is political expediency, so that you can say to those 40,000 workers, "Aren't we great guys"?

You're going to hear in this committee, I say to the members opposite, because I assume the minister won't be here for all of the presentations, from injured workers who are going to say: "Why are you making us pay for that? We agree the supplement should go." They're going to come and say: "We don't have a problem with that. We've asked for that. But why are you making us pay for that? Why can you not find the savings from within the compensation board system?" Anybody who's had anything whatsoever to do with the Workers' Compensation Board who suggests that we can't find the savings inside the system doesn't understand how deeply rooted the bureaucratic problems are.

#### 1440

I'd ask my colleagues from all three parties: Does the WCB work for anyone? Does it work for the injured worker who's battling medical opinions, who's battling a decision made by an adjudicator who perhaps had three weeks of training—not their fault. That's one of the most fascinating things about the workers' comp system: The most important, the most significant decision in an entire file is generally made by the most inexperienced people in the system. That's not their fault. Take a look, and I would encourage you to look, at the British Columbia model. An adjudicator in British Columbia goes under an apprenticeship training program for one year—for one year—before they are turned loose to handle files on their own. We give three weeks.

Why not take a serious look at improving the training of the adjudicators? I see nothing in this bill or in this approach or in this government's activities that even recognizes that that's a problem. You know why? They're afraid of offending somebody. They're afraid of trying to lay blame on the junior staff at the WCB. That's not what I'm saying at all.

The morale at the staff level at the board, Minister—you maybe don't get close enough to it, but we sure hear from them; they sure phone my office and they ask for anonymity when they do so, for obvious reasons—the



morale is extremely low. They don't like being put into the confrontational positions that they find themselves in because they have to give a no decision or a qualified decision on a particular injury without the proper backup.

Then you get a medical opinion on that particular case, and the doctor never even sees the worker in many of the cases—in most of the cases, if not all of the cases. Imagine deciding on the level of the injury, the level of the award, the level of the whole issue by opening a file folder. It's not fair to the doctor either. I would have hoped that there would have been some attempts to reform this system to more closely involve the medical community in the return-to-work decisions, in the vocational rehab decisions, in the health and safety decisions, in the board decisions.

Minister, one of the recommendations that we make in our report around the issue of governance and restoring accountability is to involve the medical community. We suggested the OMA and the chiropractors, and we immediately got phone calls from the podiatrists and the psychologists and many of the other medical communities saying that they had been left off. You know what? They had, and probably inappropriately so. We've sat down with them and said we want to find a way where we can work with all of the people who provide medical service to WCB to involve them all. Be that through a system of nominees collectively put forward by these groups, or however we want to work that out, we are prepared to look at that kind of an amendment because we think, depending on where the injury is—we know about the carpal tunnel syndrome problems, we know about the injuries of the 1990s around computers, around taking proper breaks, around all of those issues, and we need to address those in a much more sophisticated way.

Minister, I heard from doctors who came before the committee in Thunder Bay, in Ottawa, right around the province, who said they felt one of the biggest problems in the successful functioning of a workers' compensation board was that the medical community dealing with these issues did not have full and proper training and full and proper access to the items that would fix the patient's problem, the worker's problem. They admitted this. They in fact said: "We would like to be much more involved in the return-to-work decision but we're caught in a position"—and think about this—"where the injured worker goes to the family doctor. You go to the family doctor and you say, 'I hurt my back.' He or she is your family doctor. They're not going to say, 'You're malingering'; they're going to say, 'We'll fill out the WCB claim.'"

They're not going to question. Why would they? Why would you put a family doctor into that kind of a confrontational situation? You're going to still have a report from a family doctor, but instead of it going to a junior adjudicator, why not go to a fully trained health and safety professional doctor who works solely in that field to make the proper adjudication on the case? I see nothing to address that particular flow in this bill, which is intended to reduce the length of time that an injured worker is off, to reduce the number of accidents.

Let me share another idea that we came up with. The average cost of a claim in Canada, coast to coast, is

\$12,000—average cost. There's a low in one of the eastern provinces of about \$6,000 and the average cost of a claim in Ontario is \$24,000. That tells you a couple of things right there. It tells you that we've got a big problem with our overhead costs, either the length of the claim, the cost of adjudicating it, but it also tells you that we have an opportunity to reduce the costs of the WCB, which will benefit everyone without impacting the benefit level, by dealing with that average cost.

The other thing that I determined was that 72%, I believe it is, of all claims are dealt with in the first two weeks of the injury occurring. Think about this: If indeed 72% of them are dealt with, why even file a claim for that first two weeks? Certainly you've got to put it on record within three days, and I understand that, but why open the file? Why start that \$24,000 clock ticking on a claim when they're going to be back to work within two weeks? We've suggested, Minister, two weeks of voluntary self-insurance, agreed to by both the worker and the employer, where the worker would continue to get their salary while they work together with management, with the professional medical, with vocational rehab, with whomever, to determine whether there are opportunities for modified work, whether there are opportunities to cure the problem and go back to full level of employment. Of the claims, 72% are dealt with in two weeks.

Why are we opening files for two weeks and driving the cost of the Workers' Compensation Board? I don't think that's your fault; I don't think it's our fault; I don't think it's the Conservatives' fault. It has just happened, and we've allowed it to happen. What we have here is an opportunity to put in place some real reform in a piece of legislation. We don't need to wait, Minister, with due respect, for the results of a royal commission. Everybody who deals with workers' compensation knows where the land-mines are. They understand the problems. Many of them have differing solutions, one of the things I want to make very clear, because the minute you talk about changing the system of workers' compensation, all of a sudden you're against the injured worker. That's traditionally been the stance that your party has taken, and we hear it from some segments of organized labour, that we want to fix this on the backs of injured workers.

**1450**

I can tell you that my leader, Lyn McLeod, and my caucus do not want to do that. In fact, in our recommendations we do not recommend reducing the level of benefits. I want to just touch on that for a second. Everybody watch the W5 program? The thing that was most disgusting about the W5 program to me was that at least on six or seven or eight occasions they referred to the benefits that an injured worker gets as tax-free. Benefits are 90% of your take-home pay. Who pays taxes on their take-home pay? It's ridiculous, it's misleading, it's a red herring. In fact, if we want to get into taxing benefits and putting them back up to a lower level of gross and taking income tax off, we're just going to succeed in transferring much-needed dollar revenue from the provincial scene to the federal scene, to give them an opportunity to tax something, and I don't think we want to do that.



We strongly recommend leaving the benefits at 90%. Now, there are a lot of people in the business community who don't agree with that, who think that we should go the way of two other provinces, New Brunswick and Manitoba, in cutting benefits. Let me just share the experience that I had, to tell you why I came to the conclusion; and let me also admit, by the way, that when I started out on the outreach tour I thought cutting benefits was probably the way to go, but I came to the conclusion that it would be wrong to do that.

A couple of reasons: I heard from many people in the corporate sector who said, "We actually top up our injured workers' benefit to 100%." "Well, why would you do that?" They said: "Because we don't want someone who's been injured on the job working for us to suffer. We don't want them to have trouble making their mortgage payments or the cost of their families, their kids or whatever. We want them to get better, to come back to work." I heard that in all different-sized companies from executives all over the province, all over the country. I think it's a mistake that they do that, but they do it.

The fact that the corporation, the management side, is saying, "We don't want them to suffer," begs the question, "If you truly don't want them to suffer, the workers who are legitimately injured, why would you reduce the benefit?" The answer really came back to, "Because we want to attack the unfunded liability and because we want to take away the disincentive to return to work."

I tried to address those. I don't see any attempt to address those two problems effectively in this bill. Your predictions of taking the unfunded liability, or the funding level, from 37% currently to 55%, if that were so, if I had some confidence in that, I would say that's a step in the right direction.

One of the things we recommend is setting some goals on the unfunded liability, a more aggressive investment policy so that we can increase the \$6 billion in assets. Think about how quickly \$6 billion can actually increase if properly invested. The teachers' pension fund made 22% on its investments last year, a pretty outstanding performance. We need to be much more aggressive with the investment funds by involving—and while I know there is some private sector involvement, there's also in-house involvement in determining where the funds are managed and there are also criteria given out to the private sector that restricts it from an ability to get the proper increase.

Let's try and increase the \$6 billion in assets that exist, Minister, so that we increase on that side while we then take the \$17.2 billion in debt, in commitments, in liabilities, and we reduce it. If you use Friedland alone to reduce it, you will knock that \$17.2 billion down to about \$14 billion or less right off the bat. You go from \$6 billion over \$17.2 billion to \$6 billion over \$14 billion. You're starting to head in the right direction of bringing some confidence towards this horrendous liability that exists.

The rhetoric around all of this stuff is most interesting, because you will hear that we have to fund the unfunded liability to zero tomorrow. We can't wait 20 years; it has to be zero. I hear the leader of the third party and others

say, "We've got to eliminate the unfunded liability." Folks, it's \$11.5 billion. Eliminating that tomorrow is not very reasonable, but there should be a very clear, a very hard-nosed policy towards increasing your assets and decreasing your liabilities until we at least get up into the 75% range, and ultimately we could head towards 100% funded.

But ask yourself, how many pension funds are funded 100%? I mean, the reality is that to fund this fund 100%, the need to do that, means that every injured worker in the entire province is going to cash in his chips today, now, and demand all their money, and we know that's not going to happen. What there is, is a need to get some confidence back in the way the WCB deals with that unfunded liability instead of labour saying, "It's not a problem," and dismissing it out of hand and business saying, "It's horrendous and, in fact, if this was in the private sector, the Workers' Compensation Board, we would be reading it alongside the name of Confederation Life, because they would not allow it to sit at that level of unfunded liability."

But we need to calm the rhetoric down and say, let's put a—well, I'm serious. If you read the report, I say to the members, you will see that there is no bashing in here of any particular party or government. There is a serious, legitimate attempt to try to do four basic things: to restore accountability, through involving many more stakeholders in the province of Ontario, from the medical communities—the list goes on—many more than just labour and management. This is not a two-person show of just labour and management. There's a lot more at stake here.

We need to change the governance to restore accountability. We need to address service levels, and you do nothing in this bill to do that. This doesn't work for injured workers, it doesn't work for the people who pay the premiums, it doesn't work for the politicians who have to deal with the problems and the ongoing debate. It does certainly work for the lawyers and the advocates who make a lot of money out of dealing with these problems. I don't blame them; it's a very lucrative field. We've got to restore service levels to make it work.

We've got to attack fraud and restore effectiveness of this system and give a sense of confidence to the injured worker community, to organized labour, to big, medium and small business and to everybody; and to the taxpayer, because ultimately, at the end of the day, if this thing did fail, which a government would not let it do, it could indeed fall back to the taxpayer.

I say to anybody who wants to privatize this thing, answer me one question: What do you do with the \$11.5-billion unfunded liability, growing at the rate of \$1 million a day, if you privatize it? Shut it down, turn the lights off, and what do you do with that? I cannot get an answer to that.

Financial sustainability: I spent some time in my opening remarks addressing that, Minister. If you're right and you can get to 55% and establish a goal to go on, frankly I commend you for that. I don't have that confidence because I see you spending the money in inordinate ways, doing nothing whatsoever to reduce the cost, the overhead, the burden the WCB has created on the

entire business community and, indeed, on injured workers.

I say to you, in closing, that it is my leader's desire, my desire, my caucus's desire to improve the Workers' Compensation Board. While I think the royal commission is a terrible waste of money, we have to be at the table, since you've called it. I and others will be presenting to that royal commission, in hopes that they will accept some of the findings and implement some of the solutions that we think make sense, to save what Justice Meredith thought was an extremely good system, a just system, a system that would accrue to the benefit of injured workers and the people who pay it.

Finally—obviously you don't have time in 30 minutes, I guess, to get it all in—the real key to all of this is to prevent accidents. I could go on for some time about the health and safety agency. We recommend it be shut down and made a department of the Workers' Compensation Board. It has shown that bipartism has become chaotic at that board. It is a board and agency that is nothing more than empowerment for organized labour. It must be shut down and the responsibilities, Minister, transferred to the people who pay the bills for health and safety.

1500

I fully am committed to the principles in Bill 208, a bill that was put forward under a former Liberal administration to improve health and safety in this province, which will ultimately reduce and eliminate accidents, which will ultimately reduce costs at the Workers' Compensation Board. Unfortunately, the boondoggle that has occurred with the health and safety agency has totally taken away from proper training, from the ability of business and labour to work together, and has created an atmosphere of mistrust and unhappiness within both of those communities.

We'll be making some amendments. I hope that you will look in all seriousness at some of the recommendations which I commend to you. It's hard to be non-partisan in our business, but I'm trying as much as I can in relation to this issue because I think it is so critical for the future of this great province.

**Mrs Elizabeth Witmer (Waterloo North):** There was tremendous optimism in this province one year ago when the Premier indicated his desire to reform the workers' compensation system. I think there was a feeling at that time that if all the parties did work together, business and labour, and if they truly were committed to the process of listening and cooperating, there would be genuine reform happen in this province. Certainly, it is reform that is long overdue.

However, what we have before us today is not the reform that was desired by the people in this province. This bill will not maintain the cost of the system at a level that employers can afford, it will not ensure that there are even future benefits available for the workers and it will do nothing to improve the delivery of service to injured workers. We hear on a daily basis from our constituents about a workers' compensation system that does not meet their needs and we learn about the many frustrations that they face every day. Our staff patiently try to help the individuals because they can't get help

from the large bureaucracy that's totally out of control.

I'm extremely disappointed that although the Premier had the opportunity to make genuine reform, he aborted the process that he had established to achieve reforms and instead hastily introduced Bill 165 on May 18 of this year.

This bill that we have before us today totally ignores the reform plans that were recommended by the Premier's very own handpicked business advisers and does not reflect the accord that was reached between business and labour. For the government to pretend that it does is false, because although labour supports this legislation, the business community has denounced Bill 165 and this morning, in a news conference, has asked that it be withdrawn and that people go back to the table.

Bill 165 does absolutely nothing to address the fiscal crisis of the system or the lack of financial responsibility or accountability that presently exists. Unfortunately, the only thing that this bill does do is to place the NDP political agenda ahead of the total workers' compensation system.

Not surprisingly, the agenda in Bill 165 very strongly resembles the original labour agenda. As a result, the confidence and the trust of employers in this government has been very severely eroded. They originally did believe there was a place for them at the table and that their voice would be heard as well and that the resulting reforms would be those that had been agreed to by both sides.

The only option that this government has at the present time, if they're going to restore any credibility to a damaged process, is to withdraw this bill and return to the discussion table.

I'm going to deal with some of the major concerns with Bill 165 and I hope that in the process the minister's staff will listen to the questions I raise, and I hope there will be an opportunity for some responses as well.

I'd like to deal first with the unfunded liability. The unfunded liability is serious. We know that it's going to increase to, some say, \$13 billion and some say \$50 billion, from its current \$11.5 billion by the year 2014 and 2030. This government, still today, fails to recognize that the Workers' Compensation Board in Ontario is in crisis. The system today, folks, is already technically bankrupt because it owes workers more than \$11 billion more than it has money to pay them. The debt continues to grow at a whopping rate of \$2 million a day, and last year the WCB lost \$504 million, and that was despite the high rate hikes that we heard about this morning from some of the employers at the news conference.

Without the fundamental reform suggested by the management representatives of the PLMAC, there will eventually not be enough money to pay the injured workers unless the taxpayers in this province pay the money. We know that the Canadian Tax Foundation, in July of this year, stated that the WCB liabilities are hidden provincial deficits. Yes, the minister wondered whether it was a drain on the economy. I can assure you it is, and when you add that in, it pushes our total net debt in Ontario to \$130 billion.



We also know that the bond rating services have identified the unfunded liability as a cause for concern with respect to our provincial credit rating. Thus, the unfunded liability negatively influences our ability to attract investments and jobs and spark business confidence. I'm sure we've all heard about businesses that have planned to invest in this province, but once they determine their rate of assessment and they hear about our unfunded liability, I can tell you they take a look at another province or they take a look at the United States. It does happen.

So the unfunded liability is a very, very serious problem and this government has totally refused to deal with that issue whatsoever. We know that a decade ago, employers were concerned about the unfunded liability. We know at that time they agreed to rate increases of 15% for three years, followed by increases of 10% for the next three years, based on the fact that by the year 2014 this unfunded liability would be reduced to zero. That is simply not happening.

Even though the accident rate has decreased and employers are doing everything possible to make their workplaces safer, we still see an increasing unfunded liability. This Bill 165 achieves no savings today. In fact, by the year 2014 it's going to increase to \$13 billion for sure.

The "purposes" clause: The "purposes" clause is another major cause of concern. Originally, there was to be a financial responsibility framework proposed, and that had been agreed to by business and it had been agreed to by labour. However, that's not there.

The "purposes" clause we have before us today does not include the financial responsibility framework; it does not require fair consideration of the interests of business and the public in Ontario. Instead, it focuses the administration of the act exclusively on worker interests without any regard to the impact they have on business or on the Ontario economy.

#### 1510

The "purposes" clause and the financial responsibility framework we know were intended to inject a balance into the system, between securing benefits for injured workers and the need for financial responsibility and accountability at all levels within the system, and I repeat: all levels. These two elements, the "purposes" clause and the financial responsibility framework, were seen to be the cornerstones of the reform package. As I say, they were to inject a balance between securing benefits for injured workers and the need for financial responsibility and accountability at all levels within the system.

Indeed, labour and business agreed that a financial responsibility framework for the decision-making and operation of the system was necessary and that ultimate accountability for the system did rest with the government. It was agreed that the "purposes" clause should require that any proposed change to benefits, services, programs or policies under the act be thoroughly analysed in order to evaluate the overall consequences of the proposed changes on workers and employers and report the same to the provincial government. None of this today is reflected in the "purposes" clause before us, and

the financial responsibility and the accountability required of the board of directors will not achieve the objective that business and labour clearly felt was necessary to effectively operate the system.

As currently drafted, the bill does not require the cost to be taken into account when new provisions or policies are considered by the government or the WCB. If you apply this to issues such as stress and chronic pain, it means that the WCB will evaluate the changes with no regard whatsoever for the system to fund these improvements.

I know the government's going to say: "Well, there are provisions in the bill that are going to require the board of directors to act in a financially responsible and accountable manner. That should be sufficient to satisfy the agreement that the financial responsibility framework is within the purpose of the act." However, if you take a look at section 12 of this bill, that applies only to the board of directors. The section imposes no such responsibility on the WCB administration or on the government.

Now, that is important, because it is proposed within this bill that the government has the power now to issue policy directions on matters relating to the board's exercise of its powers and performance of its duties under the act. This is going to encompass virtually all of the WCB's activities.

My question is, why did the government not recognize the critical role that employers play in the system? Why does the "purposes" clause consider the workers' perspective only? Finally, why did the government choose to ignore the inclusion of a financially responsible framework in the "purposes" clause as agreed to by business and labour? What's here does not apply to the government or to the administration.

I'd like to go to experience rating. We all know that the development of experience rating in Ontario has represented one of the best examples of joint policy development between business and government. It is an intelligent balance between employer accountability and the basic insurance principles of workers' compensation. Originally, when we took a look at the wording, it appeared that the government was going to eliminate the existing experience rating programs. We know that in the accord it said they were to be "augmented" with greater incentives for return-to-work opportunities.

The minister has indicated today that there will be some changes made and that he's going to measure the health and safety, the vocational rehabilitation and return-to-work practices as well as measure the employer accident cost and frequency as criteria. I'm not sure exactly what's happening here. Is this going to mean more red tape for the employer community? Is it going to mean more administration involved in the WCB? Is this going to move the program from a program that measures and rewards results to a program that is going to measure and reward process? Unfortunately, that would be a grave mistake.

I really would appreciate knowing, what is the government's intention regarding this proven, workable program that presently is the only remaining program through which employers can control their ever-increasing WCB



costs? I think it's important to note that presently almost all industries are covered under one of the experience rating programs, and they have been a very major factor in reducing accident frequency in Ontario by more than 30% since 1988, so I certainly hope that the government does not intend to abandon the program as it presently is structured.

**Benefit increase:** The government was to find alternative sources of funding and determine the needs of the groups identified for benefit increases and the exemptions from indexing. This unfortunately was ignored, and the government has allowed the saving to be watered down from the amount settled on between business and labour. The additional benefits for older workers in receipt of the subsection 147(4) supplement were to be paid as an addition to the supplement, and therefore only until age 65.

The government had been asked to determine needs and how the improvement could be funded. The intent was to maintain the integrity of the savings generated by the accord that would be consistent with the "purposes" clause and the financial responsibility framework. The additional benefit for older workers in receipt of a subsection 147(4) supplement was to be paid as an addition to the supplement.

Now, the parties did agree that if the \$200-per-month increase was necessary, it was to be paid in the form of the supplement, not for life. If you pay the additional benefit, it's unfair to the employers who are being asked to fund what is now a social program and to the other workers with pensions who had been motivated enough to return to the workforce. Moreover, this benefit improvement is going to cost approximately \$96 million a year in cash, and if we remember the negative cash flow that the WCB had last year, this is going to represent an increase to the unfunded liability by \$1.5 billion immediately and \$5.6 billion by 2014. I ask the government, where will the additional money come from?

1520

**The royal commission:** There is agreement that there is a need for a royal commission. We all know that the present system does not respond to the needs of the injured worker, the employee or the employer, and certainly there was a tremendous amount of optimism regarding the royal commission. However, that optimism has also faded because there has been some premature indication that a prominent labour leader is going to be appointed to head up the royal commission. Certainly, if that happens, there will not be an impartial review. If the system is to be reviewed and if we are to identify what needs to be changed, it is absolutely essential that you have neither a prominent business leader nor a prominent labour leader chairing the royal commission.

When I have asked the government and when I have asked the Ministry of Labour and when I have called the WCB for confirming or denying whether or not a prominent labour leader was going to be appointed, no one has denied that. At this point in time I would suggest to the government that if there is any hope whatsoever as to the royal commission achieving its objective, keep in mind the need for an impartial chair of the committee, a person who is to be perceived as balanced and objective and

acceptable to both business and worker communities.

**The government authority to impose policy:** This bill gives the government the authority to issue policy direction to the board of directors for up to one year after the bill comes into force. This is totally unbelievable. This undermines the very principle of independent administration. That was one of the cornerstones of the system that was designed by Justice Meredith 80 years ago. This power is totally unprecedented and it is most extraordinary for an agency with which the government is attempting to establish a more arm's-length relationship.

In fact, last week I received a letter from the Minister of Labour where I had brought to his attention an issue regarding the WCB, and in the letter he said, "Well, as you know, we have an arm's-length relationship with the WCB." I can tell you that this authority that's being given to the government to issue policy direction to the board of directors for up to one year is going to jeopardize any attempt to develop a truly arm's-length relationship between the government and the WCB.

It will enable the government to direct the WCB to do virtually anything, even though it may no longer have the protection of the crown. At the same time, the government is under no obligation, as I've stated earlier, to act in a financially responsible and accountable manner, and is under no accountability to any body or any agency for its actions. This is, I would say, a most ludicrous situation.

This provision was not proposed in the accord and it is certainly further evidence that this government is acting in its own interests to ensure that its political agenda is going to be fulfilled, particularly in the last year of its mandate. I ask you, what is the basis for the proposal in light of the concerns that I have just raised?

**Return to work:** The re-employment provisions of Bill 165 are inconsistent with the accord. They do not reflect the understanding reached by business and labour on this very complex issue. The accord recommended that the current act be enforced by the WCB and that positive initiatives be pursued to encourage and promote re-employment, and I repeat: that positive initiatives be pursued. Bill 165 distorts the spirit of that agreement. The government has failed to provide any explanation as to why the wording of the current act does not provide the WCB with the necessary authority to enforce the re-employment obligations. The mediation provisions were not recommended or agreed to in the accord, and they will impose yet more bureaucracy in an already overcrowded and complex system.

Through these provisions, the bill is moving the WCB away from the role of being an adjudicative body to an agency that is focusing on return to work and mediation as its primary function. This was not part of the PLMAC accord.

The WCB's primary mandate is, one, to determine entitlement to benefits and services under the act and then to provide those services, not the other way around. It is not in the WCB's mandate, nor was it proposed in the accord, that the WCB's vocational rehabilitation focus should change from one of rehabilitating the worker to the point of employability to securing the worker with

employment, which this government bill appears to be attempting to do.

Also, the penalties that are proposed for employers who do not participate in the vocational rehabilitation programs were not a part of the accord either. Yet again, the government unilaterally has proposed the penalties for its own reasons. The accord attempted to promote positive incentives and cooperation as a way of improving the effectiveness of these programs, not imposing penalties on employers for non-cooperation in programs that are of questionable value and effectiveness.

This bill doesn't address the real problem: the problem with the shortage of services available to employers, the regional disparities that exist in availability of medical and vocational rehabilitation services for injured workers, or the lack of internal services and programs within the WCB to assist employers in developing effective return-to-work programs.

These are just a few of the concerns and questions about Bill 165. Time does not allow for further debate. However, I join with the others and I call on the government to withdraw this bill because it totally ignores the depth of problems facing the WCB. What we have here is that in the future there will be another government that will have to deal with the task of reforming the system. This government, in this bill, has failed to recognize that the system faces insolvency and that workers' benefits and Ontario businesses are at risk.

I urge the government to return to the discussion table and incorporate the business recommendations. It is time to put the interests of workers, employers and injured workers ahead of the political agenda.

**The Vice-Chair:** Thank you, Mrs Witmer. I'd like to call forward now the deputy minister, Jim Thomas, who will do about a 20-minute presentation and then we'll go to questions. Could anybody who's speaking please identify himself or herself for the record.

**Mr Will Ferguson (Kitchener):** Mr Chair, I have one question I'd like to ask. I've listened to the minister's position and to the Liberal Party's position as well as the Conservative Party's position. I have heard Mr Mahoney's alternative put forth and I think it's a well-thought-out alternative. I've heard Mrs Witmer's presentation as well. What I'd like to ask Mrs Witmer, because I'm a little confused about—

**The Vice-Chair:** We're not into that, Mr Ferguson. That will have to wait. Mr Thomas.

**Mr Jim Thomas:** My name is Jim Thomas. I'm actually Secretary of the Management Board, but I was the Deputy Minister of Labour when these reforms started up and I am a vice-chair of the transition team on workers' comp. On my left is Mitch Toker, who is a policy analyst in the Ministry of Labour, and on my right is Marg Rappolt, who is the director of policy in workers' compensation matters at the ministry. We'd be happy to attempt to answer any questions you might have after I finish speaking.

I think that most of my comments will address the issues raised by Mrs Witmer, and they don't, I'm sure we can take further questions on that after.

I'm very pleased to be able to provide a technical overview of Bill 165 for committee members this afternoon. I think this is one of the most important pieces of labour legislation considered by a committee over the last several years. I'd like to focus my remarks in several areas. First, I want to review with you some background leading up to the tabling of this bill.

As you know, Bill 165 is founded on many months of discussion and consideration by business and labour leaders in this province. I think it's important to understand the government's purpose in pursuing workers' compensation reform at this time and its approach to developing this very important piece of legislation.

#### 1530

Secondly, I will briefly provide an overview of the Workers' Compensation Board, its operations and its financial situation, and I suspect you'll be hearing a lot of different interpretations over the course of your hearings on how the workers' compensation system does work and about its financial situation. I want to table with you a clear picture of the board's financial status and an equally clear description of the financial impact of Bill 165.

Next, I will be reviewing the specific changes proposed in Bill 165. My remarks will address Bill 165 amendments as they relate to the four key themes that underpin the legislation.

Finally, I would like to share with you the significant progress made to date by the workers' compensation transition team in developing the principles and laying the foundation for the effective implementation of these important new directions.

First, the purpose and approach to workers' comp reform: Workers' compensation, as already pointed out, is traditionally a difficult and controversial area of public policy. The government embarked on its workers' compensation reform process understanding this and recognizing that the key players in the system, business and labour, at times see differing primary objectives for the system. Government strongly felt that there was an overriding interest in the ongoing sustainability of a fair and financially responsible workers' compensation system. The government was confident that in the face of this overriding public interest, business and labour should work together in developing consensus approaches to reform.

This was the task given to the Premier's Labour-Management Advisory Committee in the spring of 1993. The Premier met with business and labour members of that group early in the process and explained the government's expectations. He noted that "government would like to see a process where the PLMAC could, through research, discussion and consultation, produce a set of consensus recommendations which address the most pressing fiscal and equity issues in the system. Government's ultimate interest in the process is to ensure the health of the workers' compensation system; and to do it in as consensual a way as possible."

Over the summer and the early fall, very good progress was made in analysing the key short- to medium-term



pressures facing the system. These included discussions on governance of the Workers' Compensation Board, the financial responsibility of the system and the need to improve return-to-work strategies for both workers and business. In the spring of 1994, the PLMAC reached a tentative agreement on a reform package which offered excellent guidance to the government on the range of issues discussed above.

In the agreement, several unresolved issues were turned over to the government for its consideration and action. In the end, business and labour could not continue to support a consensus set of reforms. However, the government used the framework put together by business and labour representatives as the foundation for its program for change. There's some question, in listening to the earlier comments, as to the extent to which the government has followed the PLMAC framework agreement. We certainly have copies of that agreement and would be happy, if people would like us to do so, to indicate the extent to which we have followed or not followed that agreement.

On April 14, 1994, the Premier announced the government's workers' compensation reform agenda, which included a series of immediate measures as well as a royal commission to study and report on the longer-term questions facing the system. The immediate measures included improving board governance and the financial integrity of the board; building on the good progress under way at the board in the areas of rehab and returning to work; and providing increased pensions for a group of older injured workers who are the most financially vulnerable.

The Premier also established a transition team headed by Mr William Blundell, former president and CEO of General Electric Canada, to assist government in implementing its reform agenda. The transition team also includes senior government officials and the interim vice-chair of administration of the Workers' Compensation Board, Mr Kenneth Copeland. Representatives from business and labour, as well as the head of the office of the worker adviser, have had standing invitations to participate in transition team discussions.

Participants have offered extremely valuable advice and the team recently has given to government its recommendations on how most successfully to implement reform, and government has adopted these key recommendations. I will return to a discussion of these later in my address. Let me then turn to the Workers' Compensation Act and the board.

Ontario's first Workers' Compensation Act was introduced in 1914. We all know that the act introduced an historic compromise where workers gave up the right to sue their employers and in return were guaranteed protection against income loss due to industrial disease or injury, irrespective of fault. It was designed as a publicly administered, compulsory system and, with the exception of a few specifically defined employers, was a collective liability system. Workers' benefits were funded exclusively by employers.

Since that time, the legislation has undergone several significant changes. Early on, these changes focused

largely on increases to benefit levels, moving from the initial 55% of gross earnings to the present 90% of net in the legislative amendments of 1984. In addition, there were important administrative changes such as the creation of an independent appeals tribunal. The most significant change to the design of the system came about as a result of the 1989 amendments, Bill 162, which introduced a dual award system compensating workers with permanent partial disabilities for both their future loss of earnings as well as loss of enjoyment of life.

With all these changes, the mandate of the Workers' Compensation Board has remained relatively constant. The board is responsible for providing a complex and integrated range of benefits and services to workers and employers. In 1993, the board had a 4,700 person staff, with a total administrative budget of \$343 million. Its total operating budget was \$3.3 billion, including its benefits expenses as well as its administrative and legislative obligations.

The board is also responsible for covering the future costs of current claims and maintains assets to fund these costs. To the extent that the future costs of claims exceed assets, there is an unfunded liability. The board first registered an unfunded liability in the late 1970s when assessment rates were not increased to fully account for inflation adjustments to benefits. In the early 1980s, the unfunded liability rose rapidly due to a number of factors, including retroactive adjustments to benefit levels in response to inflation and a changing mix of awards to include a higher percentage of permanent disability. The board's unfunded liability is, therefore, not a new phenomenon, but its continued growth is of critical concern.

The board's second quarter report for 1994 records the unfunded liability as of June 30 at \$11.7 billion. This reflects an asset-to-liability ratio of 36.7%. While few would disagree that the unfunded liability must be addressed, it should be noted that 1993 saw the lowest increase in the unfunded liability in 10 years.

It is this scenario that caused the government to introduce bold financial reforms to the system. The savings from the proposed reform package fall short of the suggestions of some in the business community who are calling for an immediate elimination of the unfunded liability. Rather, the reforms reflect the government's objective to restore the financial health of the system and make the system more responsive to the needs of injured workers.

The savings associated with the government's reform package are very significant, and I would like to spend a brief time reviewing them for the committee.

First, the total savings from this reform package, projected over a period of 20 years, are \$18 billion. This takes into consideration the financial implications of all elements of the reform: the very significant savings resulting from the adoption of the new indexing formula; projected savings from return-to-work measures; as well as the cost pressures associated with increased benefits for some older injured workers.

The \$18-billion costing I referred to above was determined by a PLMAC working group involving business and labour last summer. It is based on assump-



tions addressing the revenue base and expenditures of the system for a 20-year period. Based on the model developed, it was concluded that if the financial situation of the board were left unattended, the unfunded liability would rise to \$31 billion as of the year 2014. The projected \$18-billion savings would reduce this figure to \$13 billion and, as such, would increase the board's asset-to-liability ratio to a projected 55%.

So by the year 2014, if the government were not to proceed with these reforms, the unfunded liability would be some \$18 billion higher than it would otherwise. These changes represent real savings to the system, primarily as a result of some very difficult decisions affecting the indexing of injured workers' benefits. I think it's fair to say that Bill 165 is the most financially responsible piece of workers' compensation legislation that has ever been introduced for consideration by the Legislature. I believe it is the first time that it is a bill that has a benefit reduction.

1540

I should note also that the projected savings to the unfunded liability, even in the first year following the proposed enactment of the bill, are approximately \$800 million. These savings are not yet factored into the board's unfunded liability calculations. So, for example, the \$11.7-billion projection as of the end of June 1994 does not yet include the financial impact of this legislation.

I suspect you'll be hearing many different interpretations of these numbers over the course of the hearings. Other significantly higher projections for the unfunded liability have been released, primarily reflecting different assumptions about the board's future benefit obligations.

I think it's important to note that regardless of other projections espoused, the legislation before you demonstrates a very significant commitment to financial reform and an unprecedented move to restore confidence and trust in the financial integrity of the system.

In May of this year, the government appointed Kenneth Copeland as vice-chair of admin and CEO on an interim basis to manage the WCB during the transition process and to prepare the board for the implementation of the government's reform. Mr Copeland and his administration will shortly be bringing to the board of directors a balanced package of financial improvements which will address the financial sustainability and integrity of the system.

Let me now turn to a technical review of the bill. The four key areas of reform are board governance, improvements in return to work and rehab, benefits for injured workers and financial responsibility. The bill also introduces a purpose clause. I will be addressing the proposed changes to the Workers' Compensation Act as they fall under these themes.

Firstly, the purpose clause: Section 1 of the bill introduces a purpose clause which establishes that the overriding goals of the Workers' Compensation Act are to provide fair compensation, health care benefits and rehab services and to facilitate return to work. Section 12 also amends the act to require the board of directors to

act in a financially responsible manner and in the best interests of the corporation.

Currently, there is neither a purpose clause nor a duty on the board of directors to act in a financially responsible manner as set out in the Workers' Compensation Act. Purpose clauses generally speak to government's intentions in enacting legislation. The purpose clause should answer the question, "Why do we have this legislation?" So in the case of the Workers' Compensation Act, the overriding purposes of the legislation are to provide fair compensation, health care benefits, rehabilitation services and facilitate return to work.

The purpose clause is not the place in the legislation where directives are given regarding how the services are to be provided. It is most appropriate that the directives on how to achieve the goals be placed in the substantive sections of the act. The amendments proposed in section 12 of the bill explicitly establish new obligations on the board of directors to act in a financially responsible and accountable manner.

Section 15 of the bill requires the board of directors to monitor developments in understanding the relationships between work injury, occupational disease and the workers's compensation system, so that advances in health sciences are reflected in a way that is consistent with the purposes of the act and to improve the efficiency and the effectiveness of the system. It also requires the board of directors to evaluate the consequences of proposed changes in benefits, services, programs and policies to ensure that the purposes of the act are achieved.

Government is aware that business representatives have expressed concerns about the wording of this section. They have suggested that the approach does not capture the concepts proposed in the PLMAC agreement. Business representatives have noted that the obligation placed on the WCB to monitor advances in understanding and evaluating consequences "consistent with the purposes of the act" may tip the balance in legislative interpretation in favour of extending entitlement, for example.

Government is particularly interested in hearing alternative approaches in this area of the bill and will necessarily consider changes to improve this section following discussions in public hearings.

The second area is governance, and here I'm dealing with sections 11 and 12 of Bill 165. These are the sections which introduce a bipartite governance structure under the Workers' Compensation Act and change the role of the board of directors vis-à-vis that of the administration of the board.

The new board of directors will be made up of four directors representative of workers; four directors representative of employers; two vice-chairs, one representing employers and the other workers; and two directors representative of the public, nominated on the joint recommendation of worker and employer members.

The chair of the board is to be appointed by the government on the joint recommendation of the employer and worker board of directors' members. In addition, the chair of the Workers' Compensation Appeals Tribunal

continues to sit as a non-voting member of the board of directors.

This section clarifies that the board of directors' role is that of governing the board, and deletes the reference in the act to the board of directors' role in managing the corporation. The new board of directors will hire a president who will be the chief executive officer of the board and who shall manage the affairs of the board under the supervision of the board of directors.

Section 12 of the bill speaks to the roles and duties of the board of directors. The act is amended so that the board of directors is required to "act in a financially responsible and accountable manner in exercising its powers and performing its duties." It is also required to act "in good faith with a view to the best interests of the board" and "exercise the care, diligence and skill of a reasonably prudent person." These latter changes reflect the duties and standards of care set out in section 134 of the Ontario Business Corporations Act.

The third area is rehabilitation and return to work. This is the most important area addressed in the bill. These are the sections which would fundamentally change the focus of the Workers' Compensation Act. The government has introduced measures that in fact reflect a changing emphasis well under way at Ontario's Workers' Compensation Board, as well as boards in many other jurisdictions.

The Workers' Compensation Board has taken many steps already to enhance its capacity in the area of rehabilitation and return to work, recognizing that the success of a contemporary workers' compensation scheme is no longer exclusively related to the efficient, fair delivery of benefits to injured workers or dependants. Rather, it is the facilitation of integrated, effective return to work and rehabilitation strategies at the front end of claims management that is perhaps the most critical objective of the system. The workplace parties have the overriding interest and therefore the overriding responsibility to effect successful rehabilitation and return to work. Their participation in and control over rehabilitation and return-to-work efforts are fundamental principles flowing from the bill.

Section 8 of Bill 165 amends section 51 of the act so that a physician who receives a request from a worker or an employer must provide medical information relevant to the worker's return to work, provided the worker consents. Section 14 amends the regulation-making section of the act so that the WCB could prescribe by regulation the required medical information; for example, through the creation of a form.

These amendments are intended to expedite the return-to-work process by providing the workplace parties with immediate access to medical information relevant to the worker's medical restrictions and functional abilities. This provision should facilitate early and safe return to work.

Section 9 of Bill 165 introduces many amendments to the rehab section of the act, which is section 53. Subsection 9(1) amends the act so that the section applies in respect of both workers and employers. Subsection (2) requires the board promptly, after contacting the worker, to contact the employer for the purpose of identifying the

employer's need for voc rehab services. Subsection 9(3) requires the board to provide voc rehab services to both the worker and the employer when the board considers it appropriate to do so. Services for employers might include, for example, consultation on appropriate workplace accommodation.

Subsection 9(5) requires the board to consult with the employer in the design of a worker's voc rehab program. The remaining changes in this section clarify the approach to job search assistance for the worker, which should involve the worker, the employer and the board.

There is also a duty of cooperation placed on the employer with respect to voc rehab services. Sections 27 and 31 amend sections 103 and 137 of the act respectively, and provide that the WCB can levy an additional assessment on schedule 1 employers and an additional amount on schedule 2 employers if the WCB finds the employer has failed to cooperate in voc rehab. This amendment is in keeping with the power the board already has to penalize workers who are uncooperative in voc rehab, and that's section 37 of the act. It is the intention of the board to determine through consultations with workers and employers what constitutes a failure to cooperate and what are appropriate penalties.

Section 10 of the bill amends the return-to-work provisions of the act, which is section 54, so that the board may now determine on its own initiative whether the employer has fulfilled its return-to-work obligations to the worker. This is an area of the present legislation that is currently ambiguous. Business and labour PLMAC representatives recommended that this aspect of return to work be clarified. This is the only modification being proposed in the return-to-work section of the act.

#### 1550

Sections 20 and 21 of the bill address the board's role in mediating disputes regarding voc rehab and return to work. These sections in effect codify in law practices now under way at the board and reflect contemporary and successful trends in dispute resolution in other compensation systems across the country and the world.

Section 21 amends the act by adding section 72.1. Under this provision, the board would have to provide mediation services when either the worker or the employer object to a WCB decision concerning cooperation, availability or participation in a voc rehab or medical program, or a dispute regarding return-to-work obligations. After receiving the objection or application, the parties would have 30 days to complete mediation. Mediation is completed either through a resolution and withdrawal of the objection or application; or when no resolution is possible, the matter will proceed to a final determination.

Subsection 72.1(4) of the act will require that reinstatement hearings be conducted and decisions rendered within 30 days after mediation ceases. The proposed subsection also permits the board to extend this period.

The Minister of Labour has already noted that section 28 of the bill has been controversial, in that it has led to uncertainty regarding the status of existing experience rating programs administered by the Workers' Compensa-



tion Board. The WCB currently has authority to administer experience rating programs under subsection 117(3) of the act. Experience rating programs operate so that if an employer has a good accident record, its WCB assessment may be reduced by issuing a refund. If it has a bad record, the assessment may be increased by levying a surcharge.

The new subsection 103.1(1) allows the board to establish experience rating programs designed to reduce accident frequency and promote good health and safety, vocational rehabilitation and return to work practices of employers. Subsection 103.1(2) introduces new criteria to augment the current programs so that criteria such as the employer's health and safety, voc rehab and return-to-work practices be considered in addition to the base criteria of accident cost and frequency.

The ministry is tabling today for the committee's consideration the government's motion to amend section 28 of Bill 165. The amendment is to help clarify the government's position that the existing experience rating programs at the WCB will be retained, but modified or augmented in a practical fashion to include factors in addition to accident cost and frequency.

We have made available, I believe, to the committee an addendum, which I'd like to table, if I might, Mr Chair, which would set out the proposed amendment, and if I might, for the purposes of the record, read it into the record. There are two pages. The first is the document called addendum. This amendment is to help clarify the government's position that the existing experience rating programs at the WCB will be retained but modified or augmented in a practical fashion to include factors in addition to accident cost and frequency. I have copies of the proposed amendment available for committee members. The proposed motion would be:

I move that subsection 103.1(2) of the act, as set out in section 28 of the bill, be struck out and the following substituted:

"Determination of refund or surcharge

"(2) The amount of a refund or surcharge under a program shall be determined by the board based on the work injury frequency of an employer, the accident cost of the employer or both.

"Variation

"(3) The amount of a refund or surcharge may be varied by the board upon consideration of,

"(a) the health and safety practices and other programs of the employer to reduce injuries and occupational diseases;

"(b) vocational rehabilitation practices and programs of the employer;

"(c) practices and programs of the employer to assist workers to return to work; or

"(d) such other matters as the board considers appropriate."

The next area is benefits for older workers.

Benefits for older injured workers: As part of the business and labour discussions in the PLMAC process, it was noted that some older injured workers may require

special treatment with respect to their pensions. These are individuals injured prior to 1990, many of whom are unemployable and have small pensions. Business and labour could not agree on how to address this concern and, therefore, suggested that if there were a need, "Government should address the situation."

Section 32 of Bill 165 amends section 147 of the act so that the board is required to pay an additional \$200 a month to a worker receiving an amount awarded for permanent partial disability if the worker is entitled to a supplement under subsection (4) or if the worker would be entitled to one but isn't by virtue of his turning 65. In order to qualify for a subsection 147(4) supplement, the worker must not be able to benefit from a voc rehab program or fails to have an earnings capacity which approximates his or her pre-injury net average earnings following the voc rehab program. The maximum monthly supplement under this section is now \$387 a month, which is the old age security benefit level as of August 1994.

Currently, there are approximately 36,000 workers receiving subsection 147(4) supplements, and approximately 4,000 workers who would be entitled to it but for turning 65.

The next area is financial responsibility in Bill 165. Bill 165 achieves financial responsibility in several ways. As noted earlier in my remarks, section 12 of the bill places new obligations on the board of directors in how it exercises its powers and performs its duties. In addition, section 17 of the bill requires that there be a memorandum of understanding between the WCB and the Minister of Labour that establishes and records the accountability framework within which the WCB shall operate.

Later on, I will also review with you the recommendations of the transition team, as approved by the government, with respect to further measures to guarantee financial accountability and public trust of the Workers' Compensation Board.

Section 33 of the bill introduces a new indexing formula for benefits under the act, one that has profound financial implications for the corporation. Under the proposal, each January 1 the WCB would apply the following indexation factor to compensation under the act: 75% of CPI, less 1%, capped at 4%. This indexing factor is commonly known as the Friedland indexing factor and was part of the agreement reached by business and labour throughout the PLMAC deliberations.

There are exceptions provided to the above. A 100%, full CPI indexing factor will continue to be provided in the case of compensation to survivors and dependants; workers receiving the maximum amount of future loss of earnings benefits and permanent disability benefits; and those who qualify for the proposed subsection 147(4) \$200 increase in pensions—that group of 40,000. Within the PLMAC process, business and labour agreed that these groups needed special consideration for indexing and, again, that the government must make a determination as to how these people should be treated.

The final area under the technical briefing, before I talk about the transition team for a minute, are a few



other substantive amendments. First, section 16 of Bill 165 introduces a provision whereby the Minister of Labour would have the authority to issue policy directions to the WCB on matters relating to the board's exercise of its powers and performance of its duties under the act. This power is to remain in place for one year after proclamation of Bill 165. A similar provision now exists in legislation governing two other important government agencies: the Ontario Training and Adjustment Board and Ontario Hydro. In both these cases, however, the government's authority is not time-limited.

It is the purpose of this section that the government retain this special authority with respect to the WCB for one year only following enactment of the bill so as to ensure a smooth transition from the existing board of directors' structure to the new bipartite model and to guarantee the effective implementation of the directions established in this legislation.

Secondly, I would like to review the changes proposed in the sections dealing with the Industrial Disease Standards Panel. Section 2 of Bill 165 amends the Workers' Compensation Act so that the words "industrial disease" are replaced by "occupational disease" wherever they appear throughout the legislation. Similarly, it is proposed that the name of the IDSP would be changed to the Occupational Disease Standards Panel. This change reflects the fact that contemporary work-related diseases occur in many occupations other than those which are of an industrial nature.

Section 24 of the bill proposes a change in the funding relationship of the IDSP. The IDSP is a schedule 1 agency of government that is subject to the financial guidelines and constraints of all such schedule 1 agencies. It is presently funded through the Ministry of Labour with a chargeback to the Workers' Compensation Board. The proposed amendment shifts this arrangement so that the IDSP would no longer form part of the Ministry of Labour estimates process, but rather would receive its research funding directly from the bipartite WCB board of directors. The government intends to continue working with the IDSP to address some of its budget concerns and finalizing an MOU to establish appropriate accountability measures.

There are two substantive administrative amendments which I will draw to your attention. First, section 22 removes the liability of the crown for acts of negligence by the WCB or its employees and rests this liability with the WCB itself. This change is consistent with the arm's-length relationship the corporation shares with the government. Members of the board of directors, WCB employees and persons who are engaged by the WCB and who perform a judicial function will continue to be protected from financial liabilities for any acts or omissions in the discharge of such duties.

1600

Section 3 of Bill 165 clarifies that when a worker is already receiving workers' compensation benefits from another jurisdiction for the same accident, the WCB would be prohibited from paying workers' compensation to the worker or his dependants. The proposed change is to protect against double-recovery situations.

Finally, I would like to speak to the committee briefly about the progress being made by the workers' compensation transition team in developing the principles and laying the foundation for the effective installation of reform over the next year. The transition team was asked to focus its attention in three areas: the governance of the board and the roles of the government and the board of directors in this process, the implementation of financial responsibility for the board, and the installation of return-to-work and voc rehab reforms. The transition team issued a report to government recently addressing these areas and government adopted all key recommendations.

First, it was recommended and approved that the government of Ontario maintains the ultimate accountability for the workers' compensation system through the Workers' Compensation Act. The legislation will continue to define the jurisdiction of the board and that of government. For example, it is the act which sets out those issues which must be amended through legislative change and those matters that can be further defined through the policy discretion of the board of directors of the WCB. Where there is uncertainty regarding the jurisdiction of the board, the board and the government shall discuss and determine appropriate decision-making roles.

The board of directors will retain its authority to review and make recommendations for legislative change to the government, and government must seriously consider such recommendations. Similarly, and parallelly, it will be the responsibility of government to submit proposals for legislative amendment to the WCB for its review and comment prior to proceeding. The MOU between the WCB and the Minister of Labour will reflect these roles and responsibilities.

The government approved that as a condition of appointment to the WCB board of directors, prospective board members commit to the following principles: first, that the board of directors' primary responsibility is to act in the best interests of the WCB; secondly, that the board of directors must act on consensus decisions wherever possible, and should develop protocols and procedures that define a process for consensus decision-making; and third, that the board of directors should focus on the strategic goals and policies of the organization, and the CEO and his or her staff will be responsible for managing and implementing these goals and policies.

With respect to the financial accountability of the WCB, the government approved adoption of the following principles.

First, responsibility of the unfunded liability rests with the WCB, not with the government.

Secondly, the WCB board of directors has responsibility for developing and implementing a funding strategy to reduce, based on sound actuarial principles, the unfunded liability. The MOU between the Minister of Labour and the WCB will require the WCB to report to the minister on its funding strategy, and the WCB's annual report will document the success or failure of the WCB in implementing its strategy.

Thirdly, a special subcommittee of the WCB board of directors will be struck to oversee the development and monitor implementation of the new funding strategy. The

findings of the subcommittee will be reviewed annually by the board's external auditors.

Fourthly, the government will replace board of directors members if the financial review shows the board's ongoing failure to achieve its funding strategy goals.

Finally, the government accepted a report on directions in return-to-work and voc rehabilitation prepared by the transition team and agreed that the WCB should begin discussions through an expanded voc rehab advisory committee to prepare for implementation of these reforms.

The new directions set out in this bill have far-reaching implications for the workers' compensation system in Ontario. The government is committed to meaningful reform that improves the system for both employers and workers. I think this is achieved through this balanced program for change.

I would be pleased to take questions from the members on any of the points I have raised this afternoon. Thank you very much.

**The Vice-Chair:** Thank you. I think we'll proceed in rotation with 20-minute blocks, if that's agreeable to the committee. Mr Offer.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. I have a few questions that revolve around the financial implications of these particular proposals, and I'm hopeful that you might be able to provide some clarification for me.

In the document which was presented as fact sheet number 3, it talks on the back about a little bit of a breakdown as to the financial impact and it refers to, in the final number, \$18.1 billion. It speaks to that as potential savings. Everyone has spoken about savings under this legislation without that little descriptive word "potential," and I'm wondering if you might be able to tell me what are the criteria that are required in order to meet the savings as expressed in the minister's statement.

**Mr Thomas:** With respect to the first line, Mr Offer, the savings from the Friedland formula, what would have to unfold would be that the increase in CPI, the increase in wages, the various actuarial assumptions that business and labour agreed to as part of the PLMAC discussions would have to unfold roughly as predicted by business and labour to achieve the \$21.6 billion. Therefore, there are obviously scenarios that you could imagine in which the savings would be more or would be less, depending on how the actuarial assumptions unfold.

**Mr Offer:** Would you be able to provide these predictions to us?

**Mr Thomas:** Yes. I could talk to them now. I'm not sure that's helpful. If you wish, we can provide you with them.

**Mr Offer:** Not right now, but I just hope we can get something of the criteria which are used in order to verify the \$18.1 billion in saving, because if those potentials do not come about, then the numbers in the end are affected.

The next question that I have—

**Mr Thomas:** If I could respond to that, Mr Offer, the sheet that we can get you will deal with the assumptions

around CPI, employment growth, nominal wage increases and things like that, so we can get you that. On the savings from return to work, I think the assumption that's in there is that the return-to-work reforms will generate improvement in returning to work of two weeks; the duration period will reduce by two weeks. If it's reduced by less than that, it's less than \$2.1 billion. If it reduces by more than that, it's more than \$2.1 billion over the 20-year period.

**Mr Offer:** So the savings from return to work basically are—I'm trying to put some understanding behind all this. Does that mean it's assumed that people are going to get back to work two weeks earlier?

**Mr Thomas:** Yes, two weeks earlier than they currently are, on average.

**Mr Offer:** Okay. You indicated in your statement that there are currently some changes done in getting injured workers back to work. Are they built in to these numbers already?

**Mr Thomas:** No, they're assumed, those changes. Whatever is currently—

**Mr Offer:** I'm saying if nothing took place as proposed under the bill, there are certain things that are going on at the WCB that I think have as their purpose trying to get some of the injured workers back to work, the vocational rehab and a variety of other measures, as quickly as possible. Is that factored in here?

**Mr Thomas:** No. That is why I would say that the potential savings are potentially a floor, in that to the extent that the WCB is able to achieve a financial improvement package, which the board of directors under Mr Copeland's leadership is currently working on, to the extent that they are able to do that, to the extent that they are able to do better than two weeks on return to work or improve return to work, without any of these reforms in place, you improve on the \$18-billion savings.

**Mr Offer:** I believe one of the things that was earlier stated is that much of the return to work will be dependent upon a sharing of information between the employer and WCB, the medical reports and things of this nature. Premised in the proposals is "provided the worker consents." What happens if the worker doesn't consent?

**Mr Thomas:** If the worker doesn't consent, then the medical report will not be produced.

1610

**Mr Offer:** Will that affect the savings from return to work?

**Mr Thomas:** No.

**Mr Offer:** Will that have any financial impact?

**Mr Thomas:** Well, the expectation is that a certain portion of workers will consent and a certain portion will not. That is one of the return-to-work improvements that will generate, we expect, a two-week improvement.

**Mr Offer:** You've spoken about failing to cooperate by employers in vocational rehab. Will the withholding of consent by a worker be viewed as a failing to cooperate?

**Mr Thomas:** I don't know. Failure to—

**Mr Offer:** On page 10, you speak about "providing



the worker consents." The question that I have is, if the worker does not consent, as indicated, is there any penalty that the WCB will exact on the injured worker?

**Ms Marguerite Rappolt:** Section 37 is the section that deals with worker cooperation now and I wouldn't think the failure to consent would influence at all the determination of cooperation under section 37.

**Mr Offer:** The question I'm trying to ask is, "provided the worker consents." If the worker doesn't consent, is the WCB just going to allow it, fine, and just let it go? Then the question is, why would a worker share his or her medical information if there's no incentive one way or the other?

**Mr Thomas:** Oh, but there is an incentive. The incentive is that if the availability of medical information on the worker's condition can be of assistance in helping to establish a rehab program for the worker and rehab services for the employer, there's an incentive on the worker to disclose, or to permit the disclosure.

**Mr Offer:** But apart from a wish or a desire, there's nothing else that the legislation will do to get the worker and the, in terms of sharing—I don't want to belabour the point.

**Mr Thomas:** No, that's fine. But no, the legislation does not contain specific sanctions on workers who do not consent.

**Mr Mahoney:** Just as a supplementary to that particular point, one of the problems in trying to reform WCB has been the perception that there's not a balance or that the playing field has been tipped, particularly in favour of organized labour. Why would you put a sanction in this act against management for failure to participate in rehabilitation in some way, but you won't put a sanction against the worker who fails to participate by disclosing or agreeing to the disclosure of the medical information? Why would you be punitive against business and do nothing against an uncooperative injured worker?

**Mr Thomas:** Well, there already is a sanction in the act that operates against workers who do not cooperate, and that is in paragraph 37(2)(b). Where a worker does not return to work, it talks about the compensation payable for temporary partial disability:

"Where the worker does not return to work, a weekly payment [will be] in the same amount as would be payable if the worker were temporarily totally disabled, unless the worker,

"(i) fails to cooperate in or is not available for a medical or vocational rehabilitation program which would, in the board's opinion, aid in getting the worker back to work...."

So that section is the sanction against worker failure to cooperate in a voc rehab program. The parallel would be the one that I've described for the employer in terms of a penalty around failure to cooperate in a voc rehab service.

**Mr Mahoney:** The punitive action against the worker would be for a worker who refused to show up for rehab, fundamentally, in that section. It doesn't address the issue of agreeing to the release of medical information which is being released to facilitate return to work, modified

work, some kind of cooperative effort between the medical community, the worker and the employer. If the worker refuses to be part of that, that doesn't mean he or she won't show up for rehab, which is what you're referring to. They're just saying, "No, you can't see my medical file."

**Mr Thomas:** The other point I might make which may assist you is that the issues you're raising around consent, around what constitutes failure to cooperate on the part of the employer and what sort of sanctions would unfold, are things that are directly in the return-to-work paper that the transition team put together that will be developed by the board in consultation with both employers and workers under the advisory committee of the board. These are things that have not been fully developed in terms of the implementation strategy.

**Mr Offer:** Just a few other questions dealing with the bipartite proposals: In terms of representation on the labour side, what efforts have been made in attempting to have the interests of the worker who does not happen to be part of organized labour part of that representation proposal?

**Mr Thomas:** Ever since the PLMAC leaders on both the business and labour side were asked to assist with the workers' comp reform, it's been understood, and I think up front, that the interests of workers were subsumed within the representation by people from the Ontario Federation of Labour, who I know have set up a network of consultation with injured workers and injured worker groups. I believe the OFL will be making a representation to the committee, and it might be a question to pursue with them as well.

**Mr Mahoney:** A number of questions: You made a specific reference, though, to the increase in unfunded liability being the lowest in 10 years, so the increase has gone down but it's still an increase. And of course, I suppose understandably, the government tries to take some credit for that, in a bizarre way. To what extent would the recession or the lost jobs in the economy have effect?

**Mr Thomas:** I can undertake to try and get an answer to that for you, Mr Mahoney. I think it could work both ways. I think a recession in a dual-award system can create some unforeseen negative problems.

**Mr Mahoney:** Such as someone might rather be on 90% of net than 55% of net under unemployment insurance? Is that what you're suggesting?

**Mr Thomas:** No, no. It's just that my understanding is that recessionary effects have had several impacts and I think I'd prefer to get back to you with an answer on that, if I could.

**Mr Mahoney:** The group that predicted the rate of inflation for the next 20 years, if we're putting a lot of confidence in that, they should perhaps be placed into senior positions within the treasury department of the ministry. That would be quite remarkable to predict that successfully for 20 years.

I want to ask you a question about the governance side of things. You talk about great changes to this. Really, the only change that I see, and correct me if I'm wrong,



is two directors representative of the public nominated on the joint recommendation of the worker and employer members. The rest of the structure of the board is fundamentally the same as it is today. So you're adding two people who are agreeable to labour and management, which really in essence just expands the size of the board.

A second part of the question would deal with WCAT and appeals. It's my estimation that including appeals to MPPs' offices, including reappeals to the various levels of decision-making opportunities within the process, you can appeal a decision about 14 times before you get to WCAT.

1620

Have you thought or has anyone in the ministry thought about how we might reduce the level of appeals, get to WCAT quicker and not have WCAT sitting as a non-voting member on the board, but rather as a quasi-judicial body where you would simply take the appeal process through without political interference from members of the Legislature in any way whatsoever: just streamline it, get a decision, get to WCAT?

**Mr Thomas:** With respect to your first point, I would agree that in terms of the bill, the changes effectively look like the ones you've talked about, but I would argue that in fact there's a fairly profound change in the governance arrangements at the Workers' Compensation Board. I think it is not a minor change to say that the board of directors is no longer responsible for governing and managing.

I think the lines between what the board of directors' job has been and what the administrator's job has been have been quite blurred. A great deal of time and effort was spent by government, the WCB, the transition team, a number of people, in trying to sort out a model that looks much more like a typical public sector organization or private sector organization in which the board is responsible for setting the directions and looking for what the results are of the organization and they turn it over to a CEO to run the place. So there's a fairly substantial change in attempting to clarify the responsibilities of the board of directors versus the responsibilities of the administration.

Also, the fact that the government is turning over to the board of directors the task of finding a mutually agreeable, or agreed-upon, chair, and that they are responsible for finding the president of the organization reflects—

**Mr Mahoney:** Who would appoint the chair, if I might?

**Mr Thomas:** The government will appoint the chair on the joint recommendation of the five business and five labour representatives.

**Mr Mahoney:** On that point, though, it's really the mandate of the board that's changed dramatically, as opposed to the makeup of the board. I mean, it's four and four; it's bipartite; it's vice-chair, management, vice-chair, labour. We're adding two supposedly independent-thinking citizens out there who are going to come from, somehow, a recommendation by management and labour. So we're adding two people to create the optics that

we're going independent. The structure of the board doesn't really fundamentally change. The appointment's still made by the government and the chair is still appointed by the government.

**Mr Thomas:** First of all, on the public-interest member issue, I think it is not a modest change to put two public-interest members on a board of directors. My discussions with people from other jurisdictions where they've gone to a public-member representation would confirm that, that it changes the dynamics of the board, it changes the way the board operates. I think I've said all I can say about the importance of distinguishing between managing the corporation and making decisions as a board, and that is a fairly substantial difference.

I have a sense that with a legislated structure in place, the government is going to be compelled to give fairly high weight to the recommendations for appointment for a chair that come forward and are mutually agreed upon by business and labour.

**Mr Mahoney:** Mr Chair, I know I'm out of time, but I didn't get an answer on the WCAT.

**Mr Thomas:** Oh, I'm sorry. On the WCAT—

**Mr Mahoney:** That's why I asked them together.

**Mr Thomas:** On the WCAT question, the issue of responsibility for the workers' compensation system was a long-standing discussion point that carried on throughout the PLMAC negotiations and discussions. I know that in the end, business and labour on the PLMAC framework were not able to agree on what to do about tackling the larger system issue around governance, particularly WCAT. That can be seen from the chart of governance of the workers' compensation system that was appended to their framework. So that issue remains one that the commission will need to look at. It remains something that has not been fully dealt with, and I will acknowledge that as something that is a continuing issue that requires discussion.

**Mrs Witmer:** Most of my questions have not been answered, but I'd like to go to the back of your paper. You talk about the transition team and you talk about the discussion papers, and now you address the fact that the government has accepted some of the principles from those papers. First of all, could you just refresh my memory? Who is on the transition team?

**Mr Thomas:** The transition team consists of Mr Bill Blundell as the chair of the transition team; I am the vice-chair of the transition team; David Agnew, the secretary of cabinet, is on the team; Ken Copeland, the interim CEO, is on it, as well as Pat Phillips, who is from the Minister of Labour's office. Those are the, if you will, standing members of the transition team. In addition, there are permanent invitations to attend all meetings of the transition team that have been sent out to Gord Wilson of the OFL, the business representatives on PLMAC and Alec Farquhar, who is the director of the office of the worker adviser, to attend meetings as sort of representative of stakeholder interests.

**Mrs Witmer:** The last group that you mentioned, then, do they have input into the recommendations? You said there's an invitation to attend.

**Mr Thomas:** Yes, they've all had opportunity for input.

**Mrs Witmer:** Has the PLMAC participated?

**Mr Thomas:** They participated until they withdrew.

**Mrs Witmer:** So have they had an opportunity to look at the three discussion papers you have circulated?

**Mr Thomas:** I'm not exactly sure what stage the transition team papers were at when they stopped coming. I'm sure that they reviewed the return-to-work paper because I remember very vividly a meeting in my office with representatives from the PLMAC business caucus on the return-to-work paper in which we spent some time going over it. I'd have to get back to you, though, on what the level of their involvement has been with respect to being able to—they've had the opportunity to participate in consultations around all of the papers. I do know they've had extensive discussions with me around the return-to-work paper, or at least a version of it when it was in its draft stage, Ms Witmer.

**Mrs Witmer:** So the PLMAC had some input in the return-to-work discussion paper, but you're suggesting they didn't have any involvement in the governance or the financial reform paper.

**Mr Thomas:** No, I'm not saying that. I'm saying I don't remember what involvement they had in it when they stopped coming.

**Mrs Witmer:** Would you have specifically circulated the papers to those people?

**Mr Thomas:** My recollection is that we did, but I'd like to be sure of that before I say yes. I wouldn't mind getting back to you, unless my colleagues on either side of me who have also been involved in this have any better recollection.

**Mr Mitchell Tokar:** I would only add that there were versions of papers on governance and financial responsibility, much, much earlier drafts, that had been reviewed by the transition team. There was also a workshop on the issue of governance where business representatives attended.

**Mrs Witmer:** I would like a specific response to my question as to whether those papers were circulated to the members of the PLMAC and also what input those people had as to adopting the principles that we have before us. If those individuals were not involved, then I'm concerned about the principles, because they certainly don't reflect any consensus between business and labour. They are certainly quite one-sided, and I don't feel very comfortable with some of the principles that have been adopted here. I don't think they say very much at all. In fact, if we take a look at the one concerning—what is it?—board members, they must "act on consensus decisions wherever possible." Well, I'll tell you, if you leave that open-ended like that, you're bound to have problems.

1630

If you take a look at the financial accountability, they must reduce the unfunded liability. Again, it's pretty open-ended. The board's going to be replaced if they don't achieve their funding strategy goals.

I'm pretty disappointed, I guess, with the principles that have been adopted, and I would like to have some assurance that both sides, labour and management, had an opportunity for input and that if we're going to be dealing with the reform of the WCB, that balance is reflected, or we're not going to have any meaningful reform.

The minister sat in here today and he said that there was a need for both sides to get involved in the process, and what I'm hearing today is that both sides haven't been involved in the process. Yet the government has already approved the principles that we see before us today. Would you just tell me how the government went about approving these principles? How were they presented and who did the approval?

**Mr Thomas:** Well, Mrs Witmer, I guess there are two levels of answer I'd like to give you. One of them is, with respect to governance, as you speak, my memory is being refreshed and I do remember a one-day workshop in which we used a very, very well-known expert on governance, John Carver, who's written books on it, who came in and spent the day facilitating a workshop on how a board of directors and an administration and a government would sort out their respective roles and responsibilities. I know there was a paper that was used during that session, and I believe it was a version of the final governance paper.

Attending that meeting were a variety of people from a number of backgrounds, including the current interim chair of the Workers' Compensation Board, the then vice-chairs of business and labour for the Workers' Compensation Board, other board members, administration, senior officials, people from the Ministry of Labour, the secretary of cabinet, Bill Blundell, the Provincial Auditor; a variety of people who came to talk about how do we make governance work better. That was the workshop that really gave rise to most of the recommendations, I think, that you see around governance. So that's my first response.

I do know, therefore, that the PLMAC people were still involved in the process at that point, because a number of them were at that session. In fact, we had invited all of the people, I think, who made up the group that was supporting the CEOs. There were five of them, I think.

The other thing I should say to you is that if you're asking me, did they have an opportunity for input, the answer is absolutely. In other words, there have been standing invitations to the transition team meetings. So anything we've discussed as a transition team, we have held open a standing invitation to people from PLMAC and to labour and to the office of the worker adviser person to come to those meetings. So at that level invitations were there, so the opportunity was there, which is probably a different answer than the answer to your question, did they actually have input into the very final product?

**Mrs Witmer:** And did they receive copies of the discussion papers?

**Hon Mr Mackenzie:** I think there's also the question, if you'll permit me, Mrs Witmer, that when you're



putting a team together and trying to come up with some answers, there is certainly—I hadn't remembered the workshop the deputy just raised, but if people also decide they're not going to attend a session, that raises another serious question as well.

**Mrs Witmer:** Would it be possible for us to receive copies of those discussion papers, the three that were circulated?

**Mr Thomas:** Yes, we'll get those for you.

**Mrs Witmer:** I'd appreciate seeing a copy of the papers that were originally circulated.

I'd like to go back to what you said, Mr Thomas. You said when you spoke about the purpose clause that you recognized there was some concern about the purpose clause and you were interested in hearing alternative approaches in this area.

That really surprises me, because I pointed out to you in my remarks that it was my belief that labour and business had agreed that a financially responsible framework for the decision-making and operation of the system was necessary and that that needed to be injected into the purpose clause in some way in order to make sure there was balance in the system between securing benefits for injured workers and the need for financial responsibility and accountability at all levels within the system, and that was to be the cornerstone of the reform package.

If that did happen, I ask you, why was that not included and why are you now saying you'd be interested in hearing alternative approaches? Why did you not follow through on what labour and business had agreed to originally?

**Mr Thomas:** Because, as I did try to say in my commentary, we had advice from our legislative drafting people that a purpose clause is supposed to set out, what is the legislation trying to achieve, what is its fundamental substantive reason for being—in this case, compensation, rehabilitation, return to work etc—and that it is not in the purpose clause, therefore, that one places the issues around how one gets to that substantive objective. In other words, whether one acts in a financially responsible way or whatever is something that needs to be set out somewhere in the act, because (a) it makes sense and (b) it also was part of the PLMAC agreement. There are those who would argue that putting it in the main body of the act, putting obligations around, "Did you act in the best interests?" and the other things, that putting it there gives it more teeth than putting it in a purpose clause, which is simply a canon of interpretation.

So I think there's a strong argument for section 12 amendments being where they are, but I do agree that there is an issue that arises around our attempt to capture the evaluating the consequences piece in section 15, and that's the part I was saying we were looking for some assistance on. In other words, to have just taken the PLMAC words and put them into a purpose clause would have been to put a lot of things in a purpose clause that ought to end up in the substantive body of the legislation. Having said that, we did try to put everything into the bill.

**Mrs Witmer:** Well, I guess I ask you, why would

you not include it within the purpose clause and also include it within section 12? There was nothing to prevent the government from doing that.

**Mr Thomas:** Oh, there is, because then you've gone right against what the legislative drafters tell us are the rules around writing a purpose clause. I mean, the rules around writing a purpose clause are to make sure we end up with the purposes of the act. To put it in both places is to put the financial "How do we do it?" into the purpose clause.

**Mrs Witmer:** Well, as I indicated to you before, as presently worded, there's absolutely no recognition of the very important role the employers play in the system and unfortunately the purpose clause as presently worded really only considers the worker's perspective. Also, section 12 applies only to the board of directors and there is no financial responsibility at the present time in your bill on the administration of the WCB or the government. Yet, as I told you, it's the government that's going to have the ability to issue policy directions under the act. So I can tell you there is certainly some reason for concern around the present wording that the government has selected to put in and what you have selected to omit.

1640

What about the experience rating? I'm still not sure what it is that you are proposing now to do. You indicated on page 12, in the middle, "Subsection 103.1(2) introduces new criteria to augment the current programs," and then in the next paragraph you say, "The amendment is to help clarify the government's position that the existing experience rating programs at the WCB will be retained, but modified or augmented...." So what is it? It still appears to me that you're going to change the program, rather than just augmenting the program. You're saying you're going to modify.

**Mr Thomas:** The concern that we heard from the business community, which we I think have responded to directly and positively, is a concern that the way in which we have worded the bill under 103.1 fails to make any mention of accident cost and frequency and goes right into, in determining whether a refund or surcharge is available, the board shall consider various practices like health and safety.

The concern that got raised as a result of that, if I can characterize the business concern correctly, is that it looks as though through our language we have abolished the experience rating program as we know it, which was—is—a program based on accident cost, and we've also abolished the CAD-7 program, the construction one, which is based on accident, I guess, cost and frequency, and we've replaced it with a program that focuses only on workplace practices or WCB practices.

Now, that was the concern we were trying to deal with, and what we are trying to say in the motion to amend is that under subsection (2) we are still using the work injury frequency or the accident cost or both. That continues to be the way in which the amount of a refund or surcharge shall be determined. So we're trying to make it very clear to everyone, and particularly to those in the business community who are concerned about our bill's wording, that we are prepared to say categorically



that the experience rating programs based on accident, frequency or cost continue to be ones that are based on accident, frequency or cost but that in addition you can alter or vary the amount of the refund or surcharge based on a number of workplace practices, which I understand and which we understand to be the intent—and this is based on some fairly lengthy discussions with some people from the business community who are actively involved in the PLMAC process. We understand this addresses the concern that they have.

So, Ms Witmer, subsection (2) says we're going to continue to determine the amount of refund or surcharge the way we've been doing with NEER and CAD-7, but we're going to be able to vary it, vary the amount of the surcharge or refund, based on other employer practices and behaviours as set out in (a) to (d).

**Mrs Witmer:** Does that mean then that the WCB is going to go in and audit the health and safety practices of the employer to determine if they're consistent with whatever criteria you choose to establish?

**Mr Thomas:** In the PLMAC framework, the problem that you're alluding to, which is an important problem, was also recognized by the people on PLMAC, who talked about this (a), (b), (c) and (d) thing that I've referred to as a template of best practices. They talk about a template of best practices, including such elements as health and safety programs, return-to-work programs etc, and they say that:

"The elements of such a template of best practices would need to be determined by the WCB in consultation with business and labour. The mechanics of how the elements would be weighted and applied also need to be developed. Under this new incentive program, while all employers would be measured against the template of best practices, adoption of the elements would be voluntary."

So that issue around the mechanics and how it happens and how they get measured and whether you audit and how you audit and who audits, those are all absolutely important questions that are captured in the return-to-work paper the transition team in the government approved and has turned over to the board to implement by way of consultation with business and labour through this expanded advisory committee of the board. So there are opportunities for the business and labour communities to be involved in the development of the actual practices and determining whether it will be an audit, and if so, how it would happen and that kind of thing. I'll be right up front: That is not something that is developed in the legislation. That is something that gets developed through the advisory committee and through the board implementing it.

One thing I will say is that this is a reform in which there has been some fairly extensive consultation with the staff at the board, so I think we are putting to you a high degree of confidence that the board is aware of the administrative issues associated with trying to make this work and knows it's going to have to work with business and labour to answer all the good questions you're raising about how it will actually happen.

All I wanted to make sure was that I had explained to

the committee as clearly as I could the fact that this is intended to address directly the concerns that business was raising about the abolition of the experience rating programs. They made it very, very clear to me that a lot of employers have used the experience rating programs effectively and they have modified their workplace practices and to just throw them out, which is what they read into our language but was not what we intended, would be a mistake, and that's why we are intending to introduce this motion at third reading.

**Ms Murdock:** Actually, that sort of leads in well, because in my riding I have Inco, with the United Steelworkers of America, who have worked together, union and management, on a return-to-work scheme that has actually saved Inco over \$3 million in terms of NEER awards. So they are a success story as to how the return-to-work programs actually do work for the benefit of both management and labour.

I wanted to get a clarification from you from the Liberal questions, because my understanding on the medical form—and I understand too that there has been some concern in terms of the worker's permission as to what information would be given out. But I understood and I think the intent of it is that it's a process to be worked out for the prognosis in relation to return to work rather than the diagnosis of what's wrong with the worker and that a form has yet to be devised and that in any case—I mean, based on my work with the Workers' Compensation Act prior to election, the board right now can get any medical information it wants basically, which it could still do. It's just that if the expediting portion of the return-to-work thing works, then really the worker wants to get back to work fast. If this portion works, then they would end up giving permission on those return-to-work prognoses.

**Mr Thomas:** That's right, and the intent of the section is to make sure, you're right, that what is captured is information that would assist in getting the worker back to work and that it is acquired in a way that everyone agrees is a fair way to be acquired, and probably according to a prescribed form, which is why we have a power to do that.

**Ms Murdock:** And that's Mr Mahoney's concern about the form itself—or he didn't use that, but that the form is yet to be devised and is going to be done with all the stakeholders, including worker, employer, rehab specialists and so on.

**Mr Thomas:** Yes. That whole issue is set out in the return-to-work paper.

**Ms Murdock:** I just wanted that on the record for clarification purposes.

The other thing I wanted on the record for clarification purposes was the role differentiation. Under the existing legislation, the chair and vice-chair controlled things and basically had the ability—well, the chair had the right—to vote and how that worked in terms of what they did and that there was no role differentiation between administration processes and policy processes and that this will definitely change that.

I'm just wondering, does the opposition realize that

we're doing this in blocks of time till 6 o'clock? Did you still have more time? You didn't. I see. Okay.

**Mr Thomas:** I'm just trying to get the wording. Under section 56 of the current act, Ms Murdock, it says, "There shall be constituted for the management and government of the corporation and for the exercise of the powers" of "board of directors," so it sets out that the board of directors currently is responsible for managing and governing the corporation. It goes on, and I don't know if I can find it, and sets out that the chair and the vice-chair are appointed by government as opposed to the president being hired by the new board.

1650

**Ms Murdock:** It will be dramatically changed.

**Mr Thomas:** So the roles will be quite different.

**Ms Murdock:** Lastly and very quickly, I know how we send out agendas for whatever meetings we're going to have, telling everyone what's going to be on the agenda and what's going to be discussed. I presume you did that when you were having all the discussions around the return-to-work, governance issues with the PLMAC members and so on?

**Mr Thomas:** Absolutely. We've notified the PLMAC members. We've sent them agendas of all the transition team meetings. We continued to send them the agendas after they indicated that they were no longer going to participate.

**Ms Murdock:** And that they chose not to come any longer. My recollection of the press release was around the first week of August. Is that right, around there?

**Mr Thomas:** We certainly had nothing to do with them not attending.

**Mr Randy R. Hope (Chatham-Kent):** I have a couple of questions, mostly dealing with some of the comments after the minister's, but my first one: This morning, some business representatives accused the Premier of ignoring the recommendations put forward by the business caucus of the Premier's Labour-Management Advisory Committee. I'd like to know once again, for the record, how similar are Bill 165's amendments to the recommendations outlined in the PLMAC framework?

**Mr Thomas:** I guess I'm in the committee's hands. One thing that I could do, if it would be of assistance to the committee, would be to provide the committee members with a copy of the PLMAC reform framework and quickly indicate where it is that the various provisions in the framework can be found in the bill, or not. If that would be of any assistance I could do that, or I could take you through it orally.

**Mr Hope:** Would it be possible then, so that we can get a better understanding, and for everyone's best interests, that we have maybe a flow chart form where one column is what the PLMAC was recommending and what Bill 165 incorporates so that there is a comparison, a very clear comparator of what recommendations were being made and what was actually implemented in Bill 165?

**Mr Thomas:** Certainly, but to make that helpful it might be useful if I at least filed with the committee the framework agreement, and then while you're waiting for

us to do the table you can have that document to see for yourself the extent to which you think the government has followed or not followed the framework.

**Mr Hope:** The other question which I have: You mentioned back in 1972. I was wondering what the rate of benefit increases were from 1972 to 1994. I don't expect an answer from you right away.

**Mr Thomas:** Let me get back to you on that.

**Mr Hope:** At the same time I would like to know, in the same period of time, from 1972 to 1994, the unfunded liability percentage increase. It was my understanding, and I could be wrong, that during that time Davis had kept the competitive market with the eastern provinces, so he was increasing the benefit rate but wasn't charging the aspects to it. That information would be very important as we pursue these conversations in the general public about fiscal responsibility and about the NDP, and I think it's important to lay out the framework of what is there.

The other question I wanted to ask refers to Mr Mahoney's comments after the minister had spoken. He made mention of BC and he talked about our training programs and the inaccuracy of our training programs for our workers who deal with workers' compensation, and he went on to the medical profession and its relationship to workers' compensation.

Is it not so that with this legislation, the CEO will now be able to implement good policies, that you don't need the legislation to implement good training programs, that the CEO of the new structure would have that ability to implement better training programs, maybe use the BC model for training programs? Isn't that the appropriate place versus the legislative model?

**Mr Thomas:** It would be surprising to set out a legislative requirement or obligation around level of training. I don't think that exists in the Public Service Act for the Ontario government employees, and yet there's an expectation that a deputy minister will make sure that staff in his or her ministry get appropriate levels of training. I think that the board has been free and is free and will continue to be free to implement the degrees of training that it thinks are necessary.

**Mr Hope:** My one final question, and I'm going to cut it short so some of my colleagues could—the Conservative Party was very shy in its comments on where it stands, what it would like to see. It was talking about a lot of negatives. My understanding is that they would like to see the total impact carried on the benefits of individuals, the reduction of benefits.

To get rid of the unfunded liability, what would be the assessment percentage that an injured worker would receive under the Tory philosophy of taking the unfunded liability from the benefit program?

**Mr Thomas:** Are you asking, how much would the benefits need to be reduced, or how much would the employer assessment rates need to be increased?

**Mr Hope:** How much would they need to be reduced from the benefits of the individual?

**Mr Thomas:** We'll have to give some thought to how we could answer that.



**Mr Hope:** To the best of your ability, I would appreciate a comment, because they've been lax in providing how their position would be. My understanding of their position was very clear: to reduce the benefit levels to individuals.

**Mr Thomas:** I do know that the PLMAC business proposal last fall set out kind of a menu of changes around entitlement and benefit reductions that I think, in their totality, would have reduced the unfunded liability to zero by 2014. So we might have to start there, and that might be the information we can get you. I don't know what I could do to get you—you'd basically have to stop people's pensions in order to take it to zero.

**Hon Mr Mackenzie:** If I can cut in for just a minute here, there's a little bit of danger in this question, if you'll forgive me for saying it. We can try to give you what kinds of reductions or what kinds of increases and assessments would be necessary, but just the way it was asked, I wouldn't want the deputy trying to respond to what the Tories would or wouldn't do. I think that would be a little bit unfair to him too.

**Mr Thomas:** But what I should undertake to do is to make sure that the committee knows what the business caucus proposal was that was the most recent attempt to address the issue through benefit changes.

**Mr Ferguson:** Just picking up on Mr Hope's question, I'm sure we're going to hear within the next few weeks the call to balance the unfunded liability sooner than the year 2014. I think it would be very instructive and very useful for the committee to have that information at hand as to what the benefit level would be, if that's the way it is to be completed; even over the next five years what would have to be done in order to ensure that we achieve the 55% of unfunded liability.

While I'm on the 55%, and I don't want to press the panic bar on this, but for the life of me, when I talk to my constituents, they're not concerned about the unfunded liability. They're concerned about being treated fairly if they're injured on the job, and employers are concerned about fair and equitable premiums relative to their experience rating with accidents in the workplace—two common concerns I hear.

Could you explain to me how the 55% figure was arrived at and why it isn't 70% or 80% or why it isn't 30% or 40%?

**Mr Thomas:** On the asset ratio?

**Mr Ferguson:** On the unfunded liability.

**Mr Thomas:** Let me deal first with your first question, which builds on Mr Hope's question, if I could, Mr Ferguson. I have to express some uneasiness around trying to put together the scenarios that you're asking us to do around what it would take in terms of benefit reductions to achieve a certain number. There are so many ways to do it. There are so many assumptions that one could make. I guess I'm worried about how we could construct it. We need to think about that before I commit and we may have to get back to you on what we can or can't do there. So we'll just leave it—

1700

**Mr Ferguson:** I've already heard from some

employers who are suggesting that the government isn't moving quickly enough. So in order to accommodate the suggestion, at least, I think we should put together a scenario of what it would take in order to increase the unfunded liability from the current 37% to 55% within a shorter time period. I would suggest that five years for some may still be too long, but that would be I think a reasonable figure to try to arrive at. What would it take in order to balance the books within the next five years?

**Mr Thomas:** We will think about how we can respond to that. I'm not trying to avoid the question, Mr Ferguson. I'm just trying to think how we could answer it. On the 55% question, we have the analysis—I don't have it with me—that shows certain assumptions around what happens to the assets over 20 years and what happens to the liabilities under the Friedland formula scenario that allow us to project with some confidence that if the universe unfolds the way we're forecasting, the ratio will increase to 55%. We can get you that information. Now, whether we can show what it would be like to do it in five years or whatever, again, I just need to have a bit of latitude, if I might, to figure out what information we can get you that would respond to the concerns that you're raising.

**Mr Paul Klopp (Huron):** I guess it ties in a little bit with what Randy had talked about earlier, the comments from the third party, this issue around the amount of debt that's been piled up over time. I'd been led to believe there was about \$400 million worth of debt—unfunded liability I guess is the term that we're using—maybe about 1980, and then of course it has increased to the billions of dollars that we see now. The comment was made that the employers actually wanted to have rates go up 10% to 20% a decade ago, or 10% to 15%, and their payoff was that the unfunded liability would be down by the year 2014. I believe that was what was alluded to. And then the comment was made, "Well, of course, we've still got this debt."

Did the government of the time or the Worker's Compensation Board at the time agree with the employers and increase the rates back in the 1980s, or what did they do? I'm a little unclear. What happened, and why do we have this large unfunded liability at this point in time?

**Mr Thomas:** I'm not sure if I can answer your analysis question. The only information I can give you that might be of some assistance is on this chart I have here which I'd be happy to provide for the committee members that goes back to 1984 and shows that, just to give you some benchmarks, in 1984 the unfunded liability was \$2.7 billion; in 1986 it had grown to \$6.2 billion; in 1988 it grew to \$7.3 billion; in 1990 it was \$9.1 billion; in 1992 it was \$11 billion; and as of June 1994 it's \$11.7 billion, and we have the intervening years, but just to give you a sense of the increase. Therefore, the funding ratio has dropped over the last five or six years from about 40% down to about 36% as the unfunded liability has risen.

I probably don't have a satisfactory answer, Mr Klopp, as to what the various factors were that contributed to its growth, which I think is your question.

**Mr Klopp:** Yes. There was a second part to my



question, though. It was alluded to that the employers asked for major increases because they realized, from a business point of view, that they would be willing to do that, and it was told to the Workers' Compensation Board at the time. Did the Workers' Compensation Board, through the government or whatever, actually follow through with those increases back a decade ago?

**Mrs Witmer:** Yes, they did.

**Mr Thomas:** We can get you more information on this. There was a funding strategy, I believe, that was constructed by the Workers' Compensation Board a decade ago, and it was to discharge the unfunded liability as it then existed, the \$2.7 billion or whatever it is, over 30 years. There was a history of almost every year, from 1984 until just about the present, and it may not be every year, but roughly every year there was a failure to meet the funding strategy.

So there was a recalculation and there was a redefinition of what the assessment rate would need to be, and that's how the board got into target assessment rates, which weren't achieved. So now we have a target assessment rate that's higher than the average assessment rate, but if we were running it at the target assessment rate, it would discharge the unfunded liability by 2014. That's the theory, Mr Klopp.

So what we're saying in the directions, by the way, what the government is saying in its directions is that the board needs to construct on the basis of the Friedland formula and all the things that have happened through the reforms; the board needs to construct a new funding strategy and to make sure there's a subcommittee of the board that does that and manages that and monitors that and tries to make sure that the funding strategy not only is a sensible one but is one that can be achieved and is achieved on an annual basis.

It's a matter of debate, the extent to which the failure to achieve the funding strategy was an administrative cost problem, an assessment rate problem or a benefit level problem. Of course, that will continue to be an ongoing source of argument and disagreement, but I just simply thought I'd help to trace you through at least the theory of it over the last decade.

**The Vice-Chair:** I'd like to take this opportunity to thank the minister and the former deputy minister and ministry staff for being here. I understand ministry staff will be here through the whole course of the hearings.

This committee stands adjourned until 10 am tomorrow.

*The committee adjourned at 1707.*

## CONTENTS

Monday 22 August 1994

<b>Resignation of Chair</b> .....	R-825
<b>Subcommittee report</b> .....	R-825
<b>Workers' Compensation and Occupational Health and Safety Amendment Act, 1994, Bill 165,</b>	
<i>Mr Mackenzie / Loi de 1994 modifiant la Loi sur les accidents du travail et la Loi sur la santé</i>	
<b>et la sécurité au travail, projet de loi 165, M. Mackenzie</b> .....	R-825
<b>Ministry of Labour</b> .....	R-825
Hon Bob Mackenzie, minister	
Jim Thomas, Secretary of the Management Board of Cabinet	
Marguerite Rappolt, director, workplace policies and practices branch	
Mitchell Toker, manager, workers' compensation	
Mike Cooper, parliamentary assistant to the minister	

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

- \***Chair / Président:** Vacant
- \***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)  
Conway, Sean G. (Renfrew North/-Nord L)
- \*Fawcett, Joan M. (Northumberland L)
- \*Ferguson, Will, (Kitchener NDP)  
Huget, Bob (Sarnia ND)  
Jordan, Leo (Lanark-Renfrew PC)
- \*Klopp, Paul (Huron ND)
- \*Murdock, Sharon (Sudbury ND)
- \*Offer, Steven (Mississauga North/-Nord L)
- \*Turnbull, David (York Mills PC)  
Waters, Daniel (Muskoka-Georgian Bay ND)
- \*Wood, Len (Cochrane North/-Nord ND)
- \*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Akande, Zanana L. (St Andrew-St Patrick ND) for Mr Huget  
Hope, Randy R. (Chatham-Kent ND) for Mr Wood  
Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Conway  
White, Drummond (Durham Centre ND) for Mr Waters  
Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

**Clerk / Greffière:** Manikel, Tannis

### **Staff / Personnel:**

Richmond, Jerry, research officer, Legislative Research Service  
Fenson, Avrum, research officer, Legislative Research Service



R-38

R-38

ISSN 1180-4378

**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Tuesday 23 August 1994**

**Journal  
des débats  
(Hansard)**

**Mardi 23 août 1994**

**Standing committee on  
resources development**

**Workers' Compensation and  
Occupational Health and Safety  
Amendment Act, 1994**

Vice-Chair: Mike Cooper  
Clerk: Tannis Manikel

**Comité permanent du  
développement des ressources**

**Loi de 1994 modifiant la Loi  
sur les accidents du travail  
et la Loi sur la santé  
et la sécurité au travail**

Vice-Président : Mike Cooper  
Greffière : Tannis Manikel

*50th anniversary*

**1944–1994**

*50<sup>e</sup> anniversaire*



### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal des débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
RESOURCES DEVELOPMENT****COMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES**

Tuesday 23 August 1994

Mardi 23 août 1994

*The committee met at 1003 in room 151.***WORKERS' COMPENSATION AND  
OCCUPATIONAL HEALTH AND SAFETY  
AMENDMENT ACT, 1994****LOI DE 1994 MODIFIANT LA LOI  
SUR LES ACCIDENTS DU TRAVAIL  
ET LA LOI SUR LA SANTÉ  
ET LA SÉCURITÉ AU TRAVAIL**

Consideration of Bill 165, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 165, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

**The Vice-Chair (Mr Mike Cooper):** I call this meeting to order. We'll be continuing with our public deliberations on Bill 165.

**PREMIER'S LABOUR-MANAGEMENT  
ADVISORY COMMITTEE  
BUSINESS STEERING COMMITTEE**

**The Vice-Chair:** I'd like to call forward our first presenters, the Premier's labour council business steering committee. Good morning. As you're aware, you'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you could leave a little time for some questions from each of the caucuses. Please identify yourself for the record and then proceed.

**Mr David Hambley:** Good morning, ladies and gentlemen. My name is David Hambley. I am the chair of the business steering committee of the Premier's Labour-Management Advisory Committee. With me today at the table are colleagues that I'll introduce shortly. I would like to point out we have many more supporters in the audience.

About 18 months ago the Premier of Ontario asked the PLMAC, as it is known, for advice on how the government could reform the Ontario workers' compensation system. The business steering committee was assembled. It is a cohesive alliance of major business organizations which supported the business caucus of the PLMAC. We are active in representing the employer community's views on workers' compensation issues.

With me today are Doug Gilbert on my left, a lawyer with Heenan Blaikie; Ted Nixon on my right, an actuary with William M. Mercer; and Stephen Cryne, executive director of the Employers' Advocacy Council. These people are technical experts who have participated on the business steering committee and advised the PLMAC throughout the process.

Together our alliance represents over 85% of Ontario's diverse employer base, including many large Ontario

corporations and small businesses. At the outset, the Premier asked business and labour to work together to produce a reform system to do two things: (1) pay injured workers fairly, providing a balanced approach to the problems plaguing the system and (2) meet the test of being financially sound.

The business community spent thousands of hours developing a comprehensive package of reforms that, if acted upon, would have eliminated the unfunded liability, secured future benefits for workers, improved vocational rehabilitation and placed the system on a secure footing while improving the climate for business investment in the province of Ontario. A copy of the business proposal is attached to this submission and you will see this proposal many times in the next few weeks during your hearings.

The government chose not to act on those proposals, but rather they requested that business and labour try to provide a consensus package of reforms. We were told that if business and labour did not, government would act to develop its own solution.

This ultimatum led to further meetings between senior business and labour representatives in March 1994 at which time an accord was reached. The accord was immediately hailed as a success by the government of Ontario. While everyone wasn't happy, there was support in the business and labour communities. However, support for the accord evaporated in the business community when the government debased the agreement by altering it. When the parties couldn't agree on the government's new interpretation, the government proceeded to introduce Bill 165.

Bill 165 is not a product of the bipartite group that the government asked and received advice from, this despite the fact that the PLMAC process produced an accord that had substantial support in both the labour and employer communities. The proposed solution in the form of Bill 165 is a clear misunderstanding of the PLMAC proposal. This is the very group from which the Premier sought advice. The bill will not address the fiscal crisis of the system nor the lack of financial responsibility or accountability that exists.

The government's actions have now produced a package of reform that does little to restore the lack of confidence that all stakeholders have with the system. It has destroyed any confidence that we had for the success of bipartitism at this level.

The cornerstone of the business steering committee's original proposals and the accord is the purpose clause,

one that is quite different from that which appears in Bill 165. Financial responsibility, which put balance in the system, has been removed from it despite the accord. The labour people to this day will agree with business that the purpose clause as written in the accord is acceptable.

I will now ask Mr Gilbert, who is a distinguished counsel practising in the area of workers' compensation law and who provided technical support, to speak. He brings extensive experience based on work within the Ministry of Labour and private practice. He will advise the standing committee on the importance of including the purpose clause in Bill 165 as we had proposed.

**Mr Doug Gilbert:** My purpose is to explain to you why the purpose clause is important to the Premier's Labour-Management Advisory Committee, to the management members of that group and to the business community at large.

Before I begin, I think it's important to spend a moment to remind ourselves of how the PLMAC was created and why it was created. The PLMAC was established after the introduction of Bill 40 at a time when there was considerable acrimony in the province between business and labour. I think, fairly seen, the PLMAC was intended to serve as a bridge between the two labour market parties and an attempt to bring them back together towards a better relationship and a relationship in which consensus could be reached on some of the important labour issues facing the province. That was the reason the group was created in the first place.

It was against that backdrop that it really received its first formal assignment, and that was from the Premier, which was to consider ways to reform the workers' compensation system. The Premier in charging the group with this responsibility gave them a fairly limited time frame; I think it was approximately six months. The Premier also gave the group a fairly specific set of instructions in terms of what they were to look at and what they were to report back on.

1010

If you look at our document—I think it's numbered document 2, the one with the green cover—on the second page of this document you will see our summary of the instructions that the Premier gave the group when it was given the task of considering reforms to the Workers' Compensation Act. The mandate from government is listed on the left-hand side, "Balance worker and employer interests; provide a financially responsible system; address governance; ensure a competitive system; improve cash flow and achieve savings." Those were the directions that this group took from the Premier as it went about to do its work and report back with recommendations.

These directions from the Premier I think reflect the basic underlying purpose and intent of the workers' compensation program since its inception in 1915. Those purposes are really twofold: to compensate injured workers and to create and sustain a viable insurance program for employers. Those are the two underlying purposes of the statute, and I think you will see in this list of instructions from government those themes being advanced.

With these instructions, the business members of the PLMAC met throughout the summer to develop recommendations in a number of areas. One of the things that concerned the group was, how do you refocus, how do you redirect the workers' compensation system which, according to the Premier's instructions and according to any objective assessment, is in serious financial trouble? What do you do to refocus the system so that it can sustain itself and continue to provide an acceptable level of benefits for workers?

The business representatives on the group looked to the government's own example, its own model that it followed when the government was reforming the Labour Relations Act. If we look at the discussion paper that preceded the reforms of the Labour Relations Act, we see in that discussion paper concern on the part of the government that the act isn't providing the access to organizing that it was intended to provide. The service sector is falling behind. Employees don't have the right to participate in the workplace as they should. All of those were perceived flaws in the existing Labour Relations Act as the government viewed that statute.

So what did it do? One of the ways it attempted to refocus the Labour Relations Act was to introduce a purpose clause. An old statute, a new government and a new direction, they introduce a purpose clause for the purpose of refocusing the administration of the statute in a way which the government saw fit.

We see in the Labour Relations Act purpose clause precisely those objectives: enhancing access to organizing, promoting collective bargaining and encouraging employee participation. That's what the government thought had to be done to modernize the statute and it chose a purpose clause to bring it off. So when the business members of the PLMAC set about their task, they looked to a purpose clause as well as the mechanism for refocusing the Workers' Compensation Act.

There was an initial draft of a purpose clause which you'll find in this document at page 5. On the Premier's further instructions, the business community met with the representatives on the PLMAC from labour to negotiate a compromise document, and you'll see that document. The product of the negotiations with labour is the single page on your desk that was handed out this morning.

This was the product of two days of intense negotiations in March of this year involving business representatives, also involving senior labour representatives, Mr Wilson from the OFL, Mr Pomeroy from the CWC and Mr Gerard from the Steelworkers, among others. This was the document that at the end of those discussions both sides were prepared to live with in terms of the purpose clause that would be suitable to refocus the Workers' Compensation Act.

I just want to spend a moment reviewing the elements of this agreement. First of all, you'll see that it begins with an understanding on financial responsibility that in decision-making and in the operation of the system, it's important that there be a financial responsibility framework. The introduction continues, "The underlying premise of the FRF and the governance process puts ultimate accountability for the system on government."



We then proceed to the content of the purpose clause itself, and you'll see that there are elements in the draft which capture the interests of the worker, the employer and the public's interest in a sound workers' compensation program. They are, I think, fairly read, a reflection of what the Premier instructed this group to do at the outset.

It begins with clause (1): The purpose of this act is "To provide fair compensation, health care benefits, rehabilitation services and return-to-work opportunities for workers." Obviously, that's recognition of the worker's interest in the system.

Clause (2): "To require the board of directors to exercise the highest level of financial responsibility and accountability in administering the workers' compensation system in Ontario." Obviously, that's the public interest: Make sure that the administrators of the system understand what's expected of them as they go about their business.

Clause (3): "To ensure that any proposed change to benefits, services, programs or policies under the act is thoroughly analysed in order to evaluate the overall consequences of the proposed changes on workers and employers and report the same to the provincial government." The employer's interest and the worker's interest in understanding the impact of change before change is made is obviously essential to a viable insurance program.

Finally, in clause (4), the interest of the worker, the public interest and the employer's interest are intertwined. It tells the decision-maker under the statute that they must consider the relationship between work injury and the workers' compensation system to ensure that advances in health sciences are reflected in benefit and program changes and also to make a continuing effort to improve the efficiency of the system.

This draft was intended to achieve the balance that the Premier asked the PLMAC to consider and make recommendations on. It was intended to enhance financial responsibility and to ensure that the system remained a viable insurance program for employers. Exactly what the Premier directed is reflected in this draft, and again I repeat, this isn't an employer document. This is the product of an accord with labour.

When you compare this draft purpose clause to the clause that found its way into the bill, you'll see two basic features have been dropped: public interest and the employer interest in impact assessment. When you look at page 1 of Bill 165, the purposes of the act are stated to be (a) to provide fair compensation, (b) to provide health care benefits, (c) to provide rehabilitation services and return-to-work opportunities. You have really a one-sided provision that found its way into the bill, unsatisfactory to achieve the objectives which the PLMAC set out to achieve.

Some would say, and I think Mr Thomas said yesterday, that this purpose clause is sufficient, that all that should be in a purpose clause is found in this language that's in Bill 165. With respect, I disagree with that. I think that's wrong and it's wrong for this reason. First, it interprets the purpose of workers' compensation to begin

with. It's, as I said, benefits but also a viable insurance program. The purpose clause of Bill 165 misses the second point, and obviously that's fundamental.

Some will also argue that, "Some of the employer interests in the PLMAC draft have found their way into the bill in other places, and so we've taken care of your concerns." I don't dispute that those provisions perhaps belong in the substantive provisions of the act as well, but they don't work to achieve the objective we're seeking to achieve.

When you take just one example—and I'll conclude so that others can speak—of what I mean, if you look at page 5 of the bill, it deals with impact assessments. Purportedly this provision is a substitute for the impact assessment language in the original purpose clause. It says, "The board shall evaluate the consequences of any proposed change in benefits, services, programs and policies to ensure that the purposes of this act are achieved." Well, it's a circular argument. It's a loop. It takes you back to the purpose clause in Bill 165, which is solely focused on the worker's interest. So it doesn't achieve what the original accord was intended to achieve.

#### 1020

I just would conclude with the observation that, as we set out to achieve a bipartite governance of the Workers' Compensation Board, to fail to implement an accord reached with business and labour is a very bad signal. It's a very bad way to begin. It's not the message that you want to send to the business community if you truly want them to be involved and committed to the bipartite system of governance.

With that, I'm going to turn it over to Ted Nixon, who will speak to some of the more practical aspects of financial responsibility.

**The Vice-Chair:** You have about four minutes left.

**Mr Ted Nixon:** Fine. As a practical matter the financial responsibility aspects generated by the purpose clause would manifest themselves in several identifiable ways. It would mean that policy developments, major WCAT leading case rulings and legislative changes having cost impact would require a thorough cost analysis before approval. Now the government does the same thing in all its ministries where it's accountable directly for revenue and expenses in health and education. Why not have the same discipline in the workers' compensation system?

Secondly, the financial responsibility issues would establish something like three critical financial parameters: the ratio of assets to liabilities, this funding ratio we all hear about, annual operating deficits and pure net cash flow as three critical barometers of the financial health of the system, and it would help to set targets for each of them so that they could be improved, the same way that other provinces, such as Alberta, BC and New Brunswick have done.

To date, in my opinion, the government and at least half of the workers' comp board of directors and most of the senior management at WCB do not understand the critical importance of these parameters to the health of the system.

Thirdly, I think financial responsibility would require the board to get on with completing the assessment rate policy and funding policy program. At the moment we're basically running a pay-as-you-go system and that isn't going to work. It basically means that the last employer in certain industries is going to pay the whole price for all the prior costs. It's not acceptable. Employers accept the pre-funding concept. We've got to get on with it and get it implemented. This would stop the notion that the financial situation isn't critical until a cheque bounces.

Fourth, the financial responsibility framework would require the board to perform an annual gain and loss analysis, understand why financial results don't match expectations for the year and would help in taking corrective action.

As you know, the current situation's disgraceful. You've seen lots of numbers on the \$11.7-billion debt. The funding ratio is the worst of any of the provinces. We've only got enough assets for two or three years' worth of benefit payments. You've heard lots about how the unfunded liability optimistically might grow to \$31 billion, which is why we came up with a lot of the proposals we did, sitting around in a four-part working group, remember, with government, business, labour and the board. All agreed on the assumptions that would go into those projections.

The \$3.3-billion immediate savings that were in our proposals have been whittled back to about \$700 million, yet we continue to see each year the board runs \$200 million to \$300 million higher in its operating deficit than it ought to be running based on the liability projections it sets and the assessment rates it's setting. If you put in the financial responsibility framework, it'll improve the security and benefits for injured workers and it'll do it at a competitive employer cost. It's really interesting that in provinces which have healthy financial situations they have minimal confrontation over workers' compensation.

Now Steve Cryne's going to bring to a conclusion our comments quickly.

**The Vice-Chair:** Half a minute. We have a busy schedule.

**Mr Steve Cryne:** Yes, I understand, thank you, Mr Chair. Bill 165 does not reflect the agreement reached between business and labour, even in the areas where there was no misunderstanding between what business and labour said.

The bill does not achieve the objectives set by the Premier when he asked business and labour to produce a new system which would pay injured workers fairly and meet the test of being financially sound. Under this bill workers will continue to face uncertainty about the security of their benefits and employers will continue to face increased WCB costs as the increased debt is passed on to future generations of employers, who will most likely be far fewer in number.

All this government has done is given us more regulations and penalties in the area of vocational rehabilitation and re-employment. They've not given us the tools in which to bring workers back into the workplace. In short, Bill 165 is not a solution.

The steering committee requests your committee to recommend to the government that Bill 165 be withdrawn and the proposals of the business steering committee, which are attached with the written submission that you have received this morning, form the basis of any further legislation with regard to the Workers' Compensation Act.

**The Vice-Chair:** Thank you, Mr Hambley, Mr Gilbert, Mr Nixon and Mr Cryne, for taking the time out and giving us your presentation this morning.

**Mr Steven W. Mahoney (Mississauga West):** Mr Chairman, I was not part of the steering committee that negotiated the agreements for times of presenters and everything else, but I just want the record to show that I think it's really a shame that we have this amount of talent come before us, with the knowledge they have on workers' compensation, and not allow them the time to present fully what they would like to present, and particularly the time for myself and I'm sure Ms Witmer to ask questions and delve into some of the issues.

I think they and other groups, many other groups, bring tremendous knowledge. They've done a lot of work and they should be congratulated for the work that they've done. I'm sure they're very frustrated to get direction directly from the Premier's office on what he, as the surrogate Minister of Labour, is looking for, then have him bail out on you the way he did. But I thank you for your presentation.

**The Vice-Chair:** Just a reminder, Mr Mahoney, that when the subcommittee originally met, we did agree on 30-minute presentations, but the response was overwhelming for presenters so it was agreed by the subcommittee that we would reduce it to 20-minute presentations to allow more people to present.

**Mr Mahoney:** Well, it just shows probably what will turn out to be the total ineffectiveness of these hearings and a total waste of time.

**Mrs Elizabeth Witmer (Waterloo North):** I would concur, as I decided the same thing. It certainly was extremely unfortunate that we have before us today the Premier's handpicked business advisers and they have only an allocation of 20 minutes and we have absolutely no time to ask them the questions that obviously need to be asked. I would hope that's taken into consideration.

**Mr Paul Klopp (Huron):** I don't know where you guys were on that committee—

**The Vice-Chair:** Order. Mr Turnbull.

**Mr Klopp:** —the majority and the opposition parties.

**Mr Mahoney:** You guys run that committee and you know it.

**Mr Klopp:** Give me a break, Steve.

**The Vice-Chair:** Order. Mr Turnbull.

**Mr David Turnbull (York Mills):** Mr Chair, I would suggest that in view of the importance of this particular presentation and the expertise that they can bring to this subject, as has been pointed out, because these are, after all, the people who the Premier asked to help to solve the problem, we should in fact allow a certain amount of extra time even if that eats into our lunch period so at



least we can have some questions answered.

**The Vice-Chair:** I think, as with other committees, it would be a real problem if we elevated or diminished any of the presenters' presentations.

**Mr Turnbull:** Excuse me. Are we suggesting that we put the people who were chosen by the Premier to solve the problem on the same plateau as people—I've noticed, for example, that the Canadian Auto Workers are presenting to us three or four times during the course of these hearings around the province. I'm not taking anything away from them, but are we suggesting they should have three shots at it whereas these people, who were asked by the Premier, are given 20 minutes? Am I to understand that you won't allow a few extra minutes?

**The Vice-Chair:** As always the Chair is in the hands of the committee. But I might remind you that we did vote on the subcommittee report yesterday which said that it would be 20-minute presentations.

**Interjection:** Do you have a problem?

**Mr Randy R. Hope (Chatham-Kent):** No, I've got no problem.

**Mr Turnbull:** Yes, you have a problem.

**The Vice-Chair:** Once again, thank you for your presentation.

PETERBOROUGH AND DISTRICT LABOUR COUNCIL

**The Vice-Chair:** Our next presenters are from the Peterborough and District Labour Council.

*Interruption.*

**The Vice-Chair:** Excuse me. There can be no comments. This is a session of the House and the people sitting in the visitors' gallery aren't allowed to comment.

**Mr Mahoney:** This is Bob Rae's Ontario. Sit down and shut up.

**Mr Klopp:** Mr Chair, I notice that during our hearings down the road that there are times that haven't yet been filled, so I'm sure, like any other group, people can ask to come back on or whatever, and I'm sure that's what we can do.

**The Vice-Chair:** Good. Good morning. I would like to welcome you this morning. As you're aware, you're allowed up to 20 minutes for your presentation. The committee would appreciate it if you'd leave a few moments for questions and comments from each of the caucuses.

**Mr Neil McMahon:** As you can see, it's a very short presentation. I am Neil McMahon, I'm the vice-president of the Peterborough and District Labour Council and I'm speaking on behalf of the labour council this morning. I would like to thank you for the opportunity to speak on behalf of the Peterborough labour council and say a few words on proposed Bill 165.

1030

Ontario's web system is apparently in crisis. Employers and politicians would have us believe that this is due to fraud, mismanagement, high benefit levels and malingering workers. The true reason for crisis is simple: the employers want to decrease benefit levels and, therefore, their costs. They speak of the Workers' Compensation Board's unfunded liability but, if employers paid their

assessments, this liability would vanish and the board would not be in crisis.

The Workers' Compensation Board was established as a program whereby work-related disabilities would be compensated. In practice, the government and the board are selective as to what types of disability will be compensated, making the worker the enemy.

Experience rating programs encourage employers to challenge entitlement decisions, appeals, and hiding of claims in non-union workplaces. Unscrupulous employers influence workers not to file claims and are rewarded for non-claims. And I don't say all; I just say some employers. The system also encourages unwarranted claims against the second injury and enhancement fund as a way to reduce employer claim costs and frequency, driving costs up for honest employers.

Now, some of the things that we hope will be definitely entrenched in this bill: The COLA increases are an absolute necessity for the future wellbeing of injured workers and for the municipalities in which they live. We all know that Brian Mulroney had to back down from de-indexing of old age benefits, and Bob Rae will have to do the same. Municipalities will suffer because more persons will have to apply for welfare because their benefits will not allow them to survive.

The makeup of the board does not include injured worker groups' representatives.

The only sure and certain way of reducing costs is by stringent enforcement of the health and safety provisions in the workplace, and bringing these people back to work.

In conclusion, the Workers' Compensation Board no longer responds to the needs of the injured workers that it was designed to serve. It is riddled with inadequacies ranging from administrative delays, policy development, benefit levels and entitlements. Injured workers face harassment from employers, the Workers' Compensation Board claims are hidden by employers, and re-employment is quite often denied.

I thank you.

**The Vice-Chair:** Thank you. We have about five minutes for each caucus. Mr Mahoney.

**Mr Mahoney:** I'd like to ask you to expand on the statement that if employers paid their assessments, the unfunded liability would vanish. What do you mean?

**Mr McMahon:** There are about 700,000 workers in Ontario who do not have workers' compensation coverage, like banks and so on and so forth. There are 20,000 employers that don't pay it at all.

**Mr Mahoney:** That 20,000 is an estimate. If there were 20,000 companies that you could nab, do you really think that would wipe out \$11.5 billion in unfunded liability?

**Mr McMahon:** It would go an awful long way.

**Mr Mahoney:** I don't think it would go anywhere near as close. I take it that you're opposed to the Friedland formula, the funds, the 75% minus 1%, cap of 4%—

**Mr McMahon:** Yes.

**Mr Mahoney:** —you're opposed to that. You want 100% indexation for all pensions including the 40,000



workers who, I think we all agree, were disadvantaged and are getting the \$200-a-month supplement. You want everybody, 100% indexation.

**Mr McMahon:** Why should it not be, sir?

**Mr Mahoney:** No, I just want to be clear what it is you're looking for. So that's going to increase the costs. So you've magically eliminated the unfunded liability in one fell swoop and you've increased the costs with the indexation. I just want to be sure I understand what you're saying.

The health and safety provisions in the workplace. Do you have any experience with the health and safety agency and how it's functioning?

**Mr McMahon:** No, I don't, sir. I'll be honest with you there.

**Mr Mahoney:** I see. Could you tell me how you think the health and safety provisions should be better enforced? Specifically, what provisions are you talking about?

**Mr McMahon:** Well, as I said, I'm not on any health and safety committees. We do have people that are there, so I could not answer that for you, sir, but I do know one thing. I'm a retired transit driver after 25 years. We had a system whereby if your bus was not figured safe to drive, it would be put in an encircled area, but instead of that, what happened was they would turn around then and the next guy would come in and they'd say: "The brakes are a little bad, but you can take it out." That was not supposed to be done. Finally, they brought one of the ministry people in from Transportation and they kind of cleared that up for us. So those are the kind of things. That bus was unsafe. A person almost had an accident with that bus because it was not left in the circle till it was checked. It was used because we didn't have enough buses.

**Mr Mahoney:** Do you see anything in Bill 165, the bill we're dealing with today, that will ensure, I'm using your words here, "stringent enforcement of health and safety provisions in the workplace"?

**Mr McMahon:** Yes, what I just finished telling you about, that bus. I should—

**Mr Mahoney:** What about Bill 165? That's what I'm trying to get at. What is there in Bill 165 that does anything to ensure stringent enforcement of health and safety?

**Mr McMahon:** If there isn't anything, it should be there. Is that not right?

**Mr Mahoney:** Absolutely, but I'm trying to understand—

**Mr McMahon:** I don't see anything there. Is that what you want me to say?

**Mr Mahoney:** I want you to say what you believe.

**Mr McMahon:** That's what I think.

**Mr Mahoney:** You don't see anything in the bill that addresses health and safety?

**Mr McMahon:** No, not right now.

**Mr Mahoney:** So you're unhappy with this bill?

**Mr McMahon:** Not all of it. I think a lot of it is

great, but then there are things that I—

**Mr Mahoney:** But you're unhappy with the de-indexing. You consider that a pretty major item?

**Mr McMahon:** That's right.

**Mr Mahoney:** You're unhappy with any attempts to address health and safety in the workplace. You don't see anything in the bill, I presume, that would in fact fine the 20,000 companies, so there's nothing there to generate additional income to deal with the unfunded liability. There's nothing in the bill, from your perspective, that would include those 700,000 workers who—those workers in the banks, the insurance companies. Not that I'm supportive of that, but I want to be very clear. You don't see anything in the bill that addresses that, so I can only assume, sir, that from your presentation, representing the Peterborough and District Labour Council, that you would concur with the former presenters who suggested the bill should be withdrawn, because it does not appear to address one single issue of concern of your labour council that you've raised today.

**Mr McMahon:** I don't say the bill should be withdrawn. I think it can be changed. In fact, I teach labour and the law in the high schools in Peterborough for the Ontario Federation of Labour. I have a pen here that was given to me by them and what it says on it is, "Give wind and tide a chance to change." I think that speaks quite clearly on your bill. Anything can change, is that not right?

**Mr Mahoney:** Oh, yes.

**Mr McMahon:** Even a bill can be changed. We found that out quickly not too long ago.

**Mr Mahoney:** But I guess where I'm having some difficulty is that you have addressed all of the major issues in this short presentation, and I appreciate the brevity in giving us an opportunity to question you, and I don't mean to cross-examine.

**Mr McMahon:** That's quite all right. I don't mind.

**Mr Mahoney:** And I apologize if I'm taking that tack. I don't mean to. I want to clearly understand that you, representing one of the labour councils in this province, when I read this presentation, I don't see that you are satisfied with any of this. Now, has your council met and put forward amendments to the bill that you'd be asking perhaps the government or the opposition parties to introduce?

**Mr McMahon:** No, we haven't. We don't meet in the summertime, as you know. We don't have meetings. We just have executive board meetings.

**Mr Mahoney:** We don't meet in the summertime either, but here we are.

**Mr McMahon:** We are now and it doesn't give the labour councils much chance to operate because everybody's on holidays. In fact, the president of the council is on holidays. That's why I'm here.

**Mr Mahoney:** Thanks for coming.

**The Vice-Chair:** Mrs Witmer.

**Mrs Witmer:** Do you realize that you have made some very serious, unsubstantiated allegations?

**Mr McMahon:** We feel they are substantiated.

**Mrs Witmer:** You have given absolutely no proof.

**Mr McMahon:** I'm not so sure about that.

**Mrs Witmer:** I don't see any evidence here, and I'm very concerned about these unsubstantiated allegations. It appears that you have tarred all employers in this province with a pretty black brush.

**Mr McMahon:** No, I didn't say "all." I did not say "all." In fact I made the statement that I did not say "all." I said "some" employers.

1040

**Mrs Witmer:** I'll tell you, if you take a look at this one-page presentation, I see a lot of unsubstantiated allegations. I think if people are going to be making this type of a statement you also have to have the proof to substantiate these allegations.

**Mr McMahon:** There's pretty good proof when there's 20,000 employers who don't pay anything to the compensation board. There are 700,000 people who aren't covered.

**Mrs Witmer:** But that's not the issue. That's not the issue with Bill 165. Have you heard the employees?

**Mr McMahon:** Speak of this?

**Mrs Witmer:** Asking for coverage by workers' compensation?

**Mr McMahon:** Oh, yes.

**Mrs Witmer:** They've approached you and—

**Mr McMahon:** Yes. We've had people say to us, "Why are we not covered?" I said: "We don't do that. We can't do that for you."

**Mrs Witmer:** It's unbelievable that you feel that the unfunded liability would totally disappear if employers paid their assessments. Do you not feel employers are paying enough assessment at the present time?

**Mr McMahon:** The ones that aren't paying at all are the ones I'm talking about.

**Mrs Witmer:** But we're not talking about bringing more people into the system; we're talking about the system as it presently exists.

**Mr McMahon:** Madam, what I'm trying to tell you is that if you bring everybody in, this compensation system won't be in the state it's in now.

**Mrs Witmer:** I can't believe that you really believe what you're saying.

**Mr McMahon:** Oh, yes, I believe it. I wouldn't be reading it if I didn't.

**Mrs Witmer:** I can assure you that bringing more people into the system is not going to solve the problem of the unfunded liability.

**Mr McMahon:** You don't think that 20,000 more organizations paying into this compensation would not be of any value, that it would not bring it down?

**Mrs Witmer:** Not the way this system is presently being run and the lack of financial accountability, the mismanagement and the fraud. There would be absolutely no improvement; in fact, there would be further chaos.

**Mr McMahon:** Can you give me proof of that?

**Mrs Witmer:** I conclude my comments. Thank you.

**Mr Will Ferguson (Kitchener):** Mr Chair, with all due respect, I think this isn't the kind of question that delegates—it's not to get into a debate with them.

**The Vice-Chair:** Yes, Mr Ferguson. Thank you.

**Mr Ferguson:** We didn't ask them to come to debate the matter. We asked them to come and express their views and opinions and that's what everybody has done.

**Mr Mahoney:** And then we can question them.

**Mr Ferguson:** I'm sorry, Mr Chair, but I'm really concerned about the tone that this is taking. We still have—

**Mr Mahoney:** In Bob's Rae's Ontario you can't ask questions?

**Mr Ferguson:** No, you can ask questions, but these people have come to express their views, not to be interrogated. This is not a court of law. This individual, this presenter, didn't make any allegations. He voiced his opinion, much the same as the previous presenters, who did not provide any financial data to back up their opinions either.

**The Vice-Chair:** Thank you, Mr Ferguson. Mr Hope.

**Mr Mahoney:** Mr Chairman, the premiums would be about \$500,000 per company—

*Interjections.*

**The Vice-Chair:** Order. Mr Hope.

**Mr Hope:** I just wanted to ask some general questions. After the minister had made his comments to us as a committee, the opposition, especially the Liberal Party, said that there are companies out there who top up WCB.

In your knowledge in the Peterborough area, are there companies in the area that top up on top of an employee's pay to make 100% earnings?

**Mr McMahon:** I don't know that. Sorry.

**Mr Hope:** No, that's fine. I guess if the Davis government during 1972 would have made sure that instead of dumping it on the unfunded liability and putting the proper assessment fees in place, yes, the crisis situation that we're faced with today probably would not be there, and I think that's important. You did raise the issue about employers and I believe it was the lack of a Conservative government back in those days to take appropriate action instead of political gain during that opportunity to stay competitive with the eastern provinces.

Do you think Ontario has the most expensive and generous workers' compensation system in Canada, in your opinion?

**Mr McMahon:** I wouldn't know that because I only live in Ontario and I've never worked out of Ontario. So I don't know that.

**Mr Hope:** Do you believe there ought to be a waiting period or an eligibility period of time to collect workers' compensation?

**Mr McMahon:** No. If I get injured when I'm working, I feel I should get it. That's what's paid for.

**Mr Hope:** Do you believe the benefit rates ought to be reduced to anywhere between 66% and 80%?

**Mr McMahon:** You said reduced, did you?

**Mr Hope:** Reduced, yes.

**Mr McMahon:** From where?

**Mr Hope:** From your current level of coverage, and reducing it to anywhere between 66% and 80%. Do you believe workers' compensation, the payment you receive, should be reduced to those levels?

**Mr McMahon:** No, I don't think anything should be reduced in this day and age.

**Mr Hope:** Why do you believe that?

**Mr McMahon:** I'll tell you, when you see people on compensation, and I've seen people where I've worked myself that had to go on benefits till they got their compensation, and then you had to pay it all back, and that to me is just not right. I think if you're going to get compensation, you should get it for the time you're off work. That's what it's there for. That's what it was meant to be in the first place, to cover your wages.

**Mr Hope:** Do you support the increase of the \$200 a month to the injured workers currently being assessed in this bill?

**Mr McMahon:** Yes, any increase, but I also want it indexed fully, 100%.

**Mr Hope:** Thank you.

**The Vice-Chair:** Mr McMahon, thank you for taking the time out this morning and giving us your presentation.

**Mr McMahon:** Thank you very much.

BOARD OF TRADE OF METROPOLITAN TORONTO

**The Vice-Chair:** I call our next presenters, from the Board of Trade of Metropolitan Toronto. Good morning. You'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you'd leave a few moments for comments and questions from each of the caucuses. Please identify yourselves for the record and then proceed.

**Mr Steve Lowden:** My name is Steve Lowden. I am president of the Board of Trade of Metropolitan Toronto and a partner with Ernst and Young. With me are, on my far right, David Brady, who is a lawyer with Hicks Morley Hamilton, and David Albinson, a human resources consultant, both members of the board of trade's human resources committee. Also joining us on my left is Donna Cansfield, the president of the Ontario Public School Boards' Association. We wish to thank you for this opportunity to present our serious concerns with Bill 165 amending the Workers' Compensation Act.

Included in the material distributed to you is the board's letter to Premier Rae dated June 27 which sets out our concerns with the bill. In our opinion, the bill does not accurately reflect the agreement on reforms to the workers' compensation system reached last March by the business caucus of the Premier's Labour-Management Advisory Committee and the representatives of the OFL.

Also included in the material is a letter of reply from the Premier dated July 18, 1994, which in our opinion fails to address the issues in our earlier letter to the Premier. With those brief remarks, I will ask Donna Cansfield from OPSBA to provide some introductory remarks, and then I'll ask David Brady to outline to you

in more detail our serious concerns with this bill.

**Ms Donna Cansfield:** As president of the Ontario Public School Boards' Association, we represent all public school boards with the exception of a few isolate boards in the north. This indicates that we represent 1.7 million learners, and within our school boards, there are over 100,000 employees.

So our position here today supporting the board of trade, from our perspective, it is imperative from both the perspective of the employees' coverage and also from the fact of the taxpayers' cost that the WCB be put on a sound footing in a financial way.

We share the board's concerns that the proposed amendments are not actually going to do the job and in fact will exacerbate the financial and fiscal problems that face the board, and we ask you for sincere consideration of the proposed amendments.

**Mr David Brady:** I think to set the context, it is important to look to a document that was issued just about two weeks ago. On August 12, 1994, the Workers' Compensation Board issued its 1994 second-quarter results. Mr Ken Copeland, the present newly appointed vice-chair of administration and the CEO, stated in the report, "During the first six months of 1994, the unfunded liability continued to be of concern, increasing by \$181 million."

1050

He also stated, "Since my arrival in mid-May 1994, it has become clear to me that all of the players within Ontario's compensation system agree on one point. The status quo was not acceptable."

In the same report, the net operating results show cash shortfalls amounting to \$400 million in the first half of 1994, which were funded by transfers from the investment fund. The same thing occurred in 1993. The compensation system is not paying for itself on a current basis, and that's the pot that we're all in and hopefully you're going to help solve.

There is no doubt that the compensation system is in financial crisis. This must be addressed by government and Bill 165 is the opportunity. So the question is, does Bill 165 do the job? In our submission, the answer is emphatically no.

What's extraordinary about Bill 165, after the few presentations you've heard thus far, is that it bears little resemblance to the process that led up to it. There are lots of documents around done by objective sources. Read the Provincial Auditor's reports of recent years. Your own Legislature in July of this year produced a report from the standing committee on government agencies. We've listened to Premier Rae. We've followed his PLMAC process on workers' compensation reform. Through all of that, the task is clear: The WCB must operate within a financial responsibility framework, it has to get its unfunded liability under control and it must be given a statute by government which is manageable. Looking at Bill 165, instead of fixing these problems, it makes them worse.

The financial responsibility framework: You have lots of material in front of you from the business steering



committee, and it is of critical importance and it's not just how you draft it and where it is. The critical importance is, at first it was a matter of agreement in March 1994, as you know, between the OFL and the business caucus of the PLMAC. Mr Gilbert went through the aspects of that purpose clause and what interests those four aspects served, balanced. But in the bill, what we see is that the reference to financial responsibility is stripped away. The only thing that's left is a purpose clause which introduces the concept of fair compensation and then lists the statutory benefits—what the statute pays in certain circumstances.

If you match the abbreviated purpose clause, the giving aspect of the act, to the newly introduced subsections 65(3.1) and (3.2)—the new obligations of the Workers' Compensation Board—you see what the result is.

Let me just deal with (3.1) and (3.2) of the newly introduced section 65. What that says is that (3.1) "requires the boards the accept advances in health sciences and related disciplines"—which is fair enough, and here is the link, "in a way which is consistent with the purposes of the act." That's the board's job. You go back to the benefits-only abbreviated clause.

Then in (3.2) it requires the board "to evaluate the consequences of any proposed change in benefits, services, programs and policies"—and that's wonderful, but here is the fly, I think, in the ointment—"to ensure that the purposes of the act are achieved." Again, back to the purposes.

What this does is it ensures that stress claims, that other conditions which are arguably related to the workplace, will be accepted, consistent with the purposes of the act, without regard to the financial consequences of expanding the scope of entitlement under the act. When you focus on those board duties and go back to the purposes, you will have an expansion of entitlement without analysis as to the cost, and therefore you don't know what the health of the accident fund is. That's a worker interest, as it should be everybody's interest.

In our view, this is simply irresponsible. It ignores the WCB's financial instability, it turns a blind eye to the WCB's increasing unfunded liability, which is now \$11.7 billion, it reforms nothing, and it puts real and necessary reform off to another day.

Coming to the other aspect, the management of the system: The bill makes the administration by the WCB more unmanageable by layering duties and functions onto an already overburdened and struggling institution. What did the representative of the Peterborough labour council say to you? He said to you the WCB doesn't operate well, and I think we would certainly agree with him.

So if you've got an overburdened and struggling institution, you can't layer other things on that it simply can't do. Rather than more change, the WCB needs a moratorium on change to allow it to get its house in order and to re-establish a credibility that it has lost, in everybody's eyes.

Instead, what does the bill do? It radically changes experience rating, and I understand that there were some comments by the Labour minister yesterday that maybe

will clear this up, but just on reading the words of the bill, it radically changes the experience rating system by requiring the WCB to audit employers before credits are given.

Instead, it invites the WCB on its own motion to police section 54, the re-employment/re-instatement section, where currently workers have the right to complain, and in our view there is no evidence to suggest the WCB enforcement mechanisms need to be beefed up. Instead, employers are exposed to a new penalty for a lack of cooperation in voc rehab. We will all agree here that voc rehab is essential and is important. People have to get back to work.

But that important mechanism, if you're going to give the WCB the power to penalize—in other words, give it more management authority—then it has to be a recognized penalty for everyone involved in voc rehab, meaning that the penalty has to impose positive obligations on employers and positive obligations on workers.

If you go back and read a Supreme Court of Canada case that was decided in September 1992—it dealt with the duty of accommodation. It's called the Renaud decision. It came out of BC, and it is a decision that is perfectly applicable to Ontario in terms of the duty to accommodate that section 54 sets out and the Ontario Human Rights Code sets out. What the Supreme Court said is that when you're dealing with the duty to accommodate, which is voc rehab in workers' compensation, it's a shared responsibility between the worker, the employer and the union, if there is a union in the workplace. Absolutely, fundamentally correct.

For the WCB to have to administer a statute where it can only penalize one of the parties that have to do what's necessary to get someone back to work, that doesn't work to advantage. It works to disadvantage. So I'd ask you to recognize the shared responsibility.

The Metro Board of Trade's message to you and OPSBA's message—and isn't this a magnificent combination between a board of trade, largely private sector, and one of the largest public sector employer groups in the province?—is simple: WCB has to be manageable; it has to be built on a shared worker responsibility, worker-employer responsibility; the management of the system has to be with as little WCB intervention in the workplace as possible, and all of this has got to happen within a financial responsibility framework.

As I said earlier, Bill 165 is an opportunity. Labour and management are on side. The deal was made in March 1994. All that is required is that the deal be implemented in accordance with its terms.

When you put two parties in a room where Gord Wilson, the president of the OFL, said the forum is "a collective bargaining forum" and you come out with a deal, that deal is a bunch of compromises where a balance has been reached, and you destroy the compromises where the balance has been reached in a collective bargaining mode by doing some and not all, you then destroy all of the basis upon which the compromises in hard bargaining have been reached, and we ask you not to do that.

We need an unfunded liability that is going to decrease over time, not maintain a level, and not slowly increase, and it is no answer to say that the Friedland indexing formula is going to save the system \$16 billion between now and 2014. That's \$16 billion or \$18 billion in the context of apparently accepted numbers where the unfunded liability would've otherwise been \$31 billion. So we end up in 2014 with an unfunded liability that is worse than today. So all we're doing, then, is slowing the rate of increase. That can't be workers' compensation reform.

1100

So we ask you to provide employers in the province with a competitive position with employers in other provinces. We ask you to guard the accident fund on behalf of workers and on behalf of the citizens of Ontario and the taxpayers of Ontario, all of us. We ask you to deal with the unfunded liability in such a way that no one in the financial community could see it as a negative impact on the province's credit rating. That's not, as far as we know, some kind of spectre which people sort of rattle and bring out without cause.

Now, Mr Lowden said that we have provided the Premier with a letter. The letter has an appendix to it, which deals more particularly with some of the more technical aspects of our concerns. Bill 165 is an opportunity. If you start with the proposition of what the problems are and you then assess Bill 165 to see whether it answers the problems, hopefully you'll find that it doesn't, and then you'll find your way clear to sorting out that to a positive conclusion. If you have any questions, thank you.

**The Vice-Chair:** Thank you. We have time for one brief question from each caucus.

**Mr Mahoney:** In a recent tour of eight municipalities in Ontario on workers' compensation which culminated in a report that I released on reform, the one thing I found out that was common to all businesses, and I'm sure many of your members, was that they would rather see Revenue Canada and the Gestapo come into their place than have workers' comp come in to do an audit. How do you feel about the intervention in Bill 165, the WCB police, the penalty, the punitive attitude that is there, and there only, I might add, against employers, with no retribution whatsoever on the other side of the coin?

**Mr Brady:** The WCB will try to do a good job, but I think the job that's given to it is unmanageable, as I said. One example of WCB auditors going into workplaces is the Workwell system. That has to do with health and safety under section 103 of the act. That system, by WCB's own assessment by its consultant, which generated a report about two years ago now, is that the Workwell system doesn't work very well and it needs to be altered drastically.

So what you will be doing is giving the WCB a whole administrative task without much parameter but asking for a payoff that I don't think it can produce on. What you'll do is make experience rating, rather than being cost-based, which is objective, go into program-based, which will only hurt small employers and will hurt

employers that are in low-risk industries. So, again, hopefully some comments made yesterday will change that somewhat so that the NEER plan isn't turfed out.

The other thing, to answer you, is that the WCB ought to be able to have input here to say what it can and can't do, because you're going to impose certain management obligations on them. Where is the report to say to you that their experience rating system is lousy? What has happened in fact is that experience rating started in 1984 with six rate groups, forest products and some other basic resource industries. The WCB in 1993 has determined that the NEER system ought to be applied to every rate group that is not now presently experience rated. To me, that's the best evidence, by the board itself that's doing the job, that its experience rating system works and works well. So why tinker when the problem hasn't been presented?

**Mrs Witmer:** Thank you very much for the presentation. It's interesting to see the school boards and the board of trade here together. I'm pleased to see that alliance.

My question to you is, in questioning the deputy yesterday regarding the financial responsibility framework, he seems to feel, and the minister seems to feel, that it's been covered in the amendment to section 58, which declares that the board needs to act in a financially responsible way. What is your opinion of the amendment?

**Mr Brady:** You look at the amendment and the words are there, but their placement and lack of consequence aren't. You would have to interpret every substantive section against the purpose clause. The purpose clause states that it is really fair compensation and lists benefits. So my question would be, what do "financial accountability" and "financial stability" mean? It means that if the system can't pay for itself to be responsible, then you have to raise the rates. In other words, it doesn't address expense and benefit level; it only addresses, then, what's necessary in order to feed the system, and that is directly contrary to what you'll find, as I said, in subsections 65(3.1) and 65(3.2). So it doesn't work.

**Ms Sharon Murdock (Sudbury):** I wanted to go back to the experience rating comments that were made. First of all, I think the clerk can provide you with a copy of the amendment that was submitted by the deputy if you don't have it already—

**Mr Brady:** No, I don't.

**Ms Murdock:** —so that you can read the exact wording. But secondly, I'm wondering if you are familiar with the offbalancing of experience rating. I mean, I'm not disagreeing with you. The amendment is going to establish that experience rating will stay there so that the employers won't be so worried. But the offbalancing in terms of the money that has been put out in terms of rebates in comparison to the money that has been—

**Mr Brady:** Surcharges.

**Ms Murdock:** —yes—is different, and it can't be maintained. There are problems with experience rating. You were singing its praises to such a degree, but there are problems.



**Mr Brady:** It's something to sing about—

**Ms Murdock:** Oh, yeah, I'm not disputing that.

**Mr Brady:** —because its effect in terms of safety in the workplace, I think no one can say that it hasn't had an effect in decreasing lost-time accidents. You may find other causes for the decrease in lost-time accidents, but you have to give it some credit. Somebody has to give it some credit in terms of the overall.

**Ms Murdock:** A company in my riding, Inco, is an excellent example.

**Mr Brady:** Exactly. My answer to you is this: Either that's a function of looking at the formulas in order to try and achieve the balance, which is one thing actuaries can do, so you look at the system overall in terms of what it can afford, and the other thing is it may be an indicator that the act, in terms of its benefit levels or in terms of the administration by the board in its ability to manage, isn't properly constructed to allow the system to operate to pay for itself. So to me, it may well be an indicator that benefit levels are too high, as has been the case in Manitoba, New Brunswick, Newfoundland and elsewhere in the country.

**The Vice-Chair:** Thank you very much, Ms Murdock. Mr Lowden, Mr Brady, Mr Albinson and Ms Cansfield, thank you for taking the time out this morning and giving us your presentation.

HEINZ-GEORG STORK

**The Vice-Chair:** I call our next presenter, Mr Heinz-Georg Stork. Good morning.

**Mr Heinz-Georg Stork:** My name is Heinz-Georg Stork. Good morning. I'm here on rather short notice. We got a call yesterday.

I'd like to mention clause 0.1(a), "to provide fair compensation to workers who sustain personal injury arising out of and in the course of their employment...." In the last six years, my experience has been that this has not been the case with me. I've come across a situation where I was informed by the NDP office in Peterborough that I was not welcome in the office and that they would not do anything for me at this time, the reason being because I had some information about certain people who did not maintain nor would they finish an advocacy.

In short, I went to the office in Peterborough, and I was given the name of a paralegal who, I know in my case and in cases of other people in that town, did not follow through. My suspicion is that there's a connection with that person, the NDP and the WCB.

Let me first read my statement. Let me say I'm separated, with six children. I worked for 26 years straight and spent three years in the army. I have yet to have any kind of compensation. After six years, I was finally sent to school. I became ill, and they stopped my payments; they have since been reinstated because of situations that I had to do to manoeuvre in order to get back on.

1110

So I feel that there are some improprieties in that area, in that town. The name that I was given, who would look after me—and the person would say that he was being

subsidized by the Ontario government—I have information from my adjudicator that he did not follow through. I've made an appointment with my doctor; he did not follow through. I know of six other people in the town where he did not follow through. This makes me somewhat suspicious. I don't believe in coincidences. I have this in writing. I have a doctor I talked to, and he also did not follow through. So I'm struck here. So what's going on?

**The Vice-Chair:** If I may, what we're doing is talking about Bill 165.

**Mr Stork:** That is Bill 165.

**The Vice-Chair:** Could you address either how this new legislation will help or won't help?

**Mr Stork:** I don't know if it won't help; I don't know if it will help. The point is, you see, it says here, "to provide fair compensation to workers who sustain personal injury arising out of and in the course of their employment...." It seems to be the forefront here, clause 0.1(a). Let me state and let me say, then, that this is not the case, and that is my complaint and that is basically my statement.

**The Vice-Chair:** Thank you. Questions or comments?

**Mr Mahoney:** I think you've interpreted the first section in the purpose clause quite accurately. We have heard from numerous injured workers, and we have injured worker representatives who'll be making presentations here this morning and throughout the committee hearings. We've heard that the WCB doesn't seem to work for anybody. The employers complain about the cost, the premiums are high, the financial responsibility, the unfunded liability, the tinkering by the government by introducing this bill and now it's setting up a royal commission; it's going to cost millions, it's going to take a long time and who knows what's going to come out of it.

It's obvious that injured workers do not get service; restoring service levels in the WCB, while the financial sustainability is important, critically important because if it's not sustained, then the system will break down and that will not benefit people like yourself who are injured. So all of those things are important, but the one underlying thing that I found is that no one is happy with this system: the people who work in it, the consultants, the advocates, the lawyers, MPPs' offices. Out of 130 MPPs, I would suggest that the number one complaint, as I said yesterday, probably followed closely by support and custody complaints, is workers' compensation. I have a staff person in my riding, in Mississauga, who is full-time dealing with workers' compensation claims; does nothing but WCB.

So it doesn't work well for injured workers. You're an injured worker. You've looked at this bill. I didn't quite understand your reference to the NDP or not being allowed to go into their office. I don't know what exactly you were saying there. Maybe you could expand on that. But after you do that, I wonder, could you tell us, as a person who is supposed to be receiving a service in this system, if there are one or two things you would recommend be changed in this act that would allow you to get the proper service from the WCB. Maybe start with your



reference to the NDP office. I don't know, what, you were thrown out of an office? What was it, a constituency office?

**Mr Stork:** I have the information here. Basically, what happened was I went to complain, and I was given the name of an advocate. I found this very unusual because it was the gentleman's job to help me, not to give out my services to an advocate for a 10% cut who doesn't do anything.

For my own personal benefit, I have eight WCB claims, and I'm on 150 milligrams for arthritis, narcotics; I can barely walk. My experience with the WCB in the last six years—my last employment was with Canada Post in 1988—is that my suspicion would be that intentionally they do not wish to help. I don't see it as the workers or the adjudicators not knowing what they're doing, though some of that is true. I suspect that there is a deliberate attempt to disregard the respect and the dignity of the workers.

In my case, I was given this person's name, and in this town he hasn't done anything for anybody. It makes perfect common sense to me: How does this man live if he doesn't do anything for anybody? To answer your question, when it comes down to the WCB, I have an understanding of how it works, and that is that it doesn't work. They don't care. They don't phone back. Basically, to make a long story short, it's just one big head game after another. I've enjoyed the privilege of being in that head game for the last six years, and this is what I see.

I phoned Ms Lee at the Ombudsman's office. I phoned King's secretary. They tell me there's an investigation and all the pieces are coming in together here. So what's going on? Like I said, I worked for 26 years straight, so what's the problem? How is it, then, that my case is not opened? It finally is, on my right knee, and I have returned to school. In spite of having returned to school—I did one semester—I became ill, and I was cut off.

**Mr Turnbull:** I'm not sure if I understood you correctly, but my understanding from what you were saying was that you applied for workmen's compensation through the normal channels and were denied compensation and then at that stage you went to your MPP's office.

**Mr Stork:** I wasn't denied; it wasn't followed through.

**Mr Turnbull:** By?

**Mr Stork:** By this advocate whose name I was given by the local NDP office in Peterborough. Information that I have on this is because of the correspondence of my adjudicator, that he did not follow through.

**Mr Turnbull:** But first of all presumably you went to the WCB directly?

**Mr Stork:** Yes, that's correct.

**Mr Turnbull:** They said you didn't qualify. Is that basically—

**Mr Stork:** The NDP office told me after this letter here that they would not continue my—

**Mr Turnbull:** This was an MPP's office you're talking about?

**Mr Stork:** I have the letter here.

**Mr Turnbull:** Clearly, we can't do anything here on a specific case, but I would suggest that you make an appointment and go back to see your MPP and insist on seeing the MPP.

**Mr Stork:** They don't want to see me.

**Mr Turnbull:** I have to tell you, I probably have more problems in my office with respect to WCB than any other issue. I suspect that if we could solve the problems with WCB, there'd be a good case for getting rid of half of the constituency workers that the MPPs have today. I realize a few MPPs may run screaming out the doors at that thought, but that's how serious the problem is. Over and over again we're hearing that workers are not satisfied, and I can assure you employers are not satisfied.

I understand that probably you haven't done the homework that maybe some of the other presenters have done, because you're an individual claimant, but would you not think it's reasonable that the group that was asked by the Premier to do the work on preparing a compromise, when there's a deal made between the employees' and the employers' groups, that this deal should be respected by the government in bringing forward legislation?

1120

**Mr Stork:** I don't see the respect, nor do I see the dignity there. I was informed by the MP's office that I was not to go into the building in Peterborough and that I was to meet only in Toronto. When I came to Toronto, the individual that I'm talking about happened to be there. I was informed that there was to be security when I walked into the building. Basically, all I've done is I handed in a letter of complaint, and it went from there. That hurts me quite a bit, about respect and dignity.

**Mr Hope:** Just help me through this process a bit; I'm trying to understand. In 1990 you faced an injury.

**Mr Stork:** No, 1988 was my last injury. I have eight injuries.

**Mr Hope:** You have eight injuries, and 1988 was your last injury.

**Mr Stork:** That's correct.

**Mr Hope:** The paperwork that was processed by your employer and your doctors was fulfilled?

**Mr Stork:** No.

**Mr Hope:** The employer never filled his paperwork out, nor did the doctor?

**Mr Stork:** No, none of them did.

**Mr Hope:** None of them filled their paperwork out. So they violated the act by not filling out the appropriate paperwork?

**Mr Stork:** Yes.

**Mr Hope:** Your employer never filed the paperwork; your doctor never filed the paperwork.

**Mr Stork:** Certain doctors. I have a doctor now. I've been away from town, and I haven't seen him for 15 years. I was up front with him. He said that he's willing to help me.

**Mr Hope:** What happened between 1988 and 1990? I'm just trying to understand where you're coming at with this.

**Mr Stork:** All right. In 1988 I first contacted the WCB. They told me to go on welfare; that was the first. Finally, a year ago, through an advocate at the time—

**Mr Hope:** Sorry for the interruption. You keep mentioning this advocate. Is this advocate a worker adviser?

**Mr Stork:** Yes, this is a different one from the one I mentioned.

**Mr Hope:** This is the worker adviser, right?

**Mr Stork:** That's correct. I was finally given a supplement pension of \$1,800 a month to return to school, which I have done. This is after five years. Concerning the other claims, the specialist who treated my back and gave me injections, steroids and so on and so forth, documented evidence as to my case. I have sent in the proper paperwork. They did not follow it through.

**Mr Hope:** When you mention your other cases, you're talking about the other seven accidents you had?

**Mr Stork:** That's correct.

**Mr Hope:** Now I've got a better understanding of where you're coming at.

**Mr Stork:** It's a long story.

**Mr Hope:** I just got a little mixed up with the dates. I just wanted to ask you some basic questions. Are you currently receiving workers' comp?

**Mr Stork:** No, I'm not.

**Mr Hope:** What are you receiving?

**Mr Stork:** Nothing. They cut me off a month ago when I became ill.

**Mr Hope:** When you were collecting workers' comp, you were receiving 90% of your wages?

**Mr Stork:** That's correct.

**Mr Hope:** One of the recommendations that's being approached in this committee is that we reduce that to anywhere between 66% and 80%. Do you believe that the benefit level ought to be reduced that you receive under workers' compensation?

**Mr Mahoney:** How can you reduce what he doesn't get?

**Mr Hope:** No, when he did get it; I mentioned when he did get it.

**Mr Stork:** I do believe it should be reduced a bit, because it's too much money.

**Mr Hope:** You believe it's too much money.

**Mr Stork:** Personally, I can understand the economics and I understand the politics and I can understand where you could perhaps rearrange it into another sort of a system, fine, but I do, yes, because you don't pay tax, and it is a bit too much. But 66% is possibly a little bit too low; I think more around the 70% range.

**Mr Hope:** Do you believe there ought to be a waiting period before you're eligible to collect workers' comp?

**Mr Stork:** I waited six years. What's the point?

**Mr Hope:** No, I'm seriously asking a question. Do

you believe there ought to be a waiting period? The problem I'm understanding is that somebody didn't fill the paperwork out for you when you received your eighth accident.

**Mr Stork:** Yes, it's all coincidental, right? But the point is that there should be a waiting period. Of course there should be a waiting period. You have to investigate the claimants, whether it's legitimate or not; a lot of them aren't. I mean, we all know that.

**The Vice-Chair:** Mr Stork, thank you for taking the time out, and I hope you find somebody who can help you with your claim.

CANADIAN UNION OF PUBLIC EMPLOYEES,  
LOCAL 134

**The Vice-Chair:** I call our next presenter, from the Canadian Union of Public Employees, Local 134. Good morning.

**Mr Terry Wilfong:** My name is Terry Wilfong. I'm an injured worker, and I'm a representative for Local 134. First off, I would like to thank the standing committee on resources development for allowing me to speak on such an important bill. I'm here today as an injured worker and as a union rep.

As an injured worker, my accident happened back in 1980. I was 15 years old at the time. I had fractured my spine and then was introduced to the WCB system. The system, to a 15-year-old kid at the time, was scary; I am now 29 years old, and the system is still scary. As a direct result of the accident in 1980, I've undergone three spinal operations—they were fusions—and a knee operation, all compensable, and was given a 30% pension award. To this day, I'm still appealing; still fighting for 14 years now.

As a union rep, what troubles me with this bill is that subsections 51(2) and 51(3) obligate a doctor to provide prescribed information about a worker's physical abilities. Although subsection 51(2) requires the consent of the worker, will a worker be deemed uncooperative if he/she refuses consent? Before a doctor should be mandated to provide information, the doctor should feel comfortable that the information provided will be used to help the worker in recovering and that the information will not be used against she/he in future dealings with the company where the accident happened.

As a workers' compensation rep, I find that benefits go too long for simple muscle strains. There should be strict limits to how long a worker should get benefits.

Section 147 does not go far enough. It compensates the lifetime pension of anyone who is entitled, or has been entitled, under subsection 147(4). This increase of \$200 should cover all pensions. I will not see this increase, because I still have a job, but my pension is still based on my pre-accident earnings of when I was 15 years old, back in 1980, and that was \$2.80 an hour.

Bill 165 has made some attempts to do justice to injured workers in Ontario.

**Mr Mahoney:** Oh, dear. You're still appealing your 30% award. How many times have you appealed? Can you give us an idea of where you went for these appeals, a little chronology, if you would.

**Mr Wilfong:** Okay. My last operation was finished in 1991; that was for a fusion. That's when the appeals first started off. Right now, the last time I got an increase was about seven months ago, and that was with compensation; an orthopaedic surgeon recommended I get an increase.

**Mr Mahoney:** Have you been to WCAT?

**Mr Wilfong:** No, I haven't, sir.

**Mr Mahoney:** So, where are you appealing, just internally in the board?

**Mr Wilfong:** Just internally, yes. I've retained the services of Koskie and Minsky, a law firm in Toronto.

**Mr Mahoney:** Yes, I'm aware of them. But they haven't taken it all the way to the appeals tribunal yet?

**Mr Wilfong:** Not yet they haven't.

**Mr Mahoney:** Is that your plan?

**Mr Wilfong:** If I get justice before I have to go there, I wouldn't go any further. But I might have to go that far. It's very expensive.

**Mr Mahoney:** Mr Chairman, if I might, the reason I asked the question is that this bill re-establishes a representative from the appeals tribunal to sit on the board as a non-voting member. The current status quo will carry on in that regard.

I have concerns about the appeal process in the Workers' Compensation Board. I've estimated that, including your MPP and re-appealing decisions—you get a negative decision, you appeal it again; you know, the different levels of appeal—you can actually appeal a decision I think as many as 14 times in the system. That alone drives the cost, if you can imagine, of the WCB, because it also puts an adjudicator, it puts an appeal officer, it puts everybody in the position of having to cover themselves, because they know that there's sort of someone watching over them and there's going to be another appeal. So it just adds to the bureaucracy.

I'm wondering if your experience would indicate that perhaps there should be a system where Koskie and Minsky, for example, representing you, could simply go to one appeal, right to the tribunal, present the case, get a decision and it's done. I see nothing in Bill 165 that will enhance or improve the appeal process, and I see the status quo by putting a WCAT representative sitting on the board. What I'm trying to get is sort of a real-life experience from you as to how complicated the appeal process has been, and do you think that there's a better way of doing it?

**Mr Wilfong:** Personally, I found the appeal system not too complicated for the simple fact that it usually gave me an increase every time I've asked for it—

**Mr Mahoney:** That would usually make you happy, yes.

**Mr Wilfong:** I think if you have undisputable medical information, generally, I find—this is just for myself—it hasn't been too bad. But what you were saying, certainly that would be better if it was simplified, I mean for the masses.

1130

**Mr Mahoney:** Let me deal with your position as a union rep, your concerns over subsections 51(2) and (3).

It seems to me that the purpose here is to share medical information so that the employer, the injured worker, the doctor, can all work together. I'm assuming that's the intent. In a perfect world, that's a good idea. In fact, I believe and have recommended that the medical community should be much more involved in sharing the information, in helping to determine what is acceptable, modified work for the worker to return to work etc etc. You're kind of suggesting—I guess to turn your statement around, are you suggesting that an injured worker should be able to arbitrarily withhold permission to share that medical information?

**Mr Wilfong:** Not at all. I kind of agree with what you just said, but where I work, the Toronto Board of Education, not only do they keep this information that you give on your file for the rest of your working days with the company, it's just they bring it up after you've been finished with your modified work program. They'll use it against you in grievances if you have to file a grievance later on a few years down the road. I'm saying, whatever information you give at the time, it should be used at the time and that's it, and it shouldn't be stored for future reference for a company, and that's what happens where I work.

**Mr Mahoney:** There is a provision in the bill that will penalize an employer who refuses to retrain or to help out an injured worker in some way. It's a little bit unclear to me as to who's going to make the decision. I assume it'll be the board, an adjudicator or someone like that, and they'll send out the WCB cops and they'll go in and slap a fine on the employer. That's very clear in Bill 165. What's also clear is that there is no similar punitive measure for an injured worker who refuses to cooperate with the medical information release in that section.

Two ways of doing this: You either penalize both the employer for being uncooperative and the worker for being uncooperative, or you give an incentive in a reverse way where you turn it around to a positive. It could be a discount on the premium, it could be better adjudication and a better awards system for the worker, something on a positive basis.

Do you think it's fair that this legislation only attacks the employer? From your perspective of having a lot of experience in this system, both as an injured worker and a union rep, do you think it's fair that the employer be slapped with this punitive measure and the employee simply goes scot free and be able to say, "I'm not going to agree with that"?

**Mr Wilfong:** The fact is, the worker has to cooperate or he's finished with the VR people up at 2 Bloor. If he doesn't cooperate, he'll be deemed uncooperative and that's it. His services will be cut, so the past is—you have to cooperate no matter what, even today.

**Mr Mahoney:** Doesn't the fact that it's not addressed in the bill, Terry, leave it sort of up in the air and subject to an adjudicator who might be having a bad day to determine that you're being uncooperative? Wouldn't you rather see something in black and white right here in the legislation that tells you what you're expected to do? One of the things you're expected to do is to work with your doctor and your employer and make sure that all the



medical information is there with regard to your fusion, or whatever it happens to be, your case or other cases. Don't you think we should put it down?

**Mr Wilfong:** There are a bunch of grey areas in the act, but I feel you should cooperate. It should be in the WCB act requiring you to cooperate.

**Mr Mahoney:** It's not, though.

**Mr Wilfong:** I don't feel that any diagnosis should be given to a company. The doctors should be able to say, "Okay, this is what he can do and this is what he can't do," he/she, but certainly no diagnosis, because where I work, it's always been thrown up in grievances.

**The Vice-Chair:** Thank you. Mrs Witmer.

**Mrs Witmer:** Thank you very much. You've certainly had a difficult time, Terry, with the system, and it's certainly very similar to some of the concerns of individuals who come to my constituency office, and I think other MPPs would agree as well. It can be a frightening system. It's a very intimidating system and I'm always very thankful that I have a staff who are very sensitive to the concerns that come our way, and endeavour to facilitate and help as much as possible, but eventually we sometimes come up with the same walls and the same frustrations as you do. You are presently working?

**Mr Wilfong:** Yes, I am.

**Mrs Witmer:** However, you are still fighting the system. What would you say has been your biggest frustration?

**Mr Wilfong:** See, my accident happened when I was 15. My pension was based on those wages back then. I get a terrible pension. Every six months I have to go in for epidural, steroidal shots for the rest of my life. I'm on narcotic pain control. I find that some people are given a 10% pension. They get \$800 a month, compared to where I get \$300, and I find this \$200 won't even affect me. I won't even get it.

**Mrs Witmer:** What do you mean, you won't get it?

**Mr Wilfong:** In the section it says if you're unemployed or if it applies to you.

**Mrs Witmer:** That's right.

**Mr Wilfong:** This doesn't apply to me.

**Mrs Witmer:** Exactly.

**Mr Wilfong:** I fall into a grey area again.

**Mrs Witmer:** That's right, and I guess that's why it is unfair because individuals such as yourself who have returned to work will not receive that additional \$200 compensation.

**Mr Wilfong:** Maybe there should be a limit to how much pension you should actually get, because I know the system is kind of broke, but after four operations, \$300, to me it's not justification.

**Mrs Witmer:** And you'll go through this discomfort for the rest of your life?

**Mr Wilfong:** Oh, yes. I have to go home for my epidurals just for pain control. I'm not saying it's terrible and horrible, but I feel for what I've gone through, \$300 isn't justified. But my company that the accident happened with moved down to the States, and I don't know

who got stuck with the bill now. Perhaps that's why I'm having a hard time appealing.

**Mrs Witmer:** I guess collectively, all the employers in the province pay into the system and that's how it's being funded. So what are you recommending then to change?

**Mr Wilfong:** I would recommend that the vocational rehabilitation department at the comp—don't be so damn arbitrary. If they're on a bad day, it's like you've kind of had it. Some of them, they're just burnt out. They've been there too long and they've become very arbitrary. But some of the stuff that I've read on Bill 165 I kind of agree with. There are a lot of good things happening.

**Mrs Witmer:** What do you agree with, Terry?

**Mr Wilfong:** Certainly section 147. It doesn't apply to me, but, still, that's great for other people.

**Mrs Witmer:** That's right, but you're saying that you'd like to see it apply to individuals such as yourself as well, the \$200?

**Mr Wilfong:** I would like to see it apply to everybody, within reason. If their pensions are astronomical that they're getting, no. I think it should go to the people with the louisiest pensions in the system, even the grey areas. The comp should individually look at the situation regularly. Maybe that's just too much work.

**Mrs Witmer:** Based on need?

**Mr Wilfong:** Yes. I feel like a 30% pension for \$300 is just not justified after three operations, and then within another 10 years I'll have to go back in and get another level fused.

**Mrs Witmer:** So it's going to be constant discomfort for the rest of your life.

**Mr Wilfong:** Yes.

**Mrs Witmer:** And pain.

**Mr Wilfong:** Yes. But Bill 165 also, I like the point where it forces the company kind of more or less to bring back an injured worker or retrain, that kind of stuff. So comp's doing a lot of good things.

1140

**Mrs Witmer:** So the emphasis on the re-employment and the return to work—

**Mr Wilfong:** Yes.

**Mrs Witmer:** I think we all agree that it is important that we attempt to get the worker back to work as quickly as possible. I don't think there's any disagreement there. Did you return to work for the company that you were employed by?

**Mr Wilfong:** No, I didn't.

**Mrs Witmer:** You never did?

**Mr Wilfong:** No, they wouldn't take me back.

**Mrs Witmer:** I guess that was long enough ago that the system operated just a little differently than it does at the present time.

I wish you well. I hope that there will be something within the bill that will certainly help individuals such as yourself. There's obviously a need there and we need to look a little more closely as to what we can do. Thank you for coming.

**Ms Murdock:** Thank you very much, Terry, for being here today. Just a clarification. I don't know if you watched yesterday; these hearings are being televised. Yesterday, the very same question in regard to your concerns in your second paragraph about will a worker be deemed uncooperative if he or she refuses to consent to the prescribed information from a doctor—

**Mr Wilfong:** Yes.

**Ms Murdock:** Just so you know—I think the deputy clarified it—there would not be a penalty. You would not be deemed uncooperative. So that should alleviate some concerns.

You alluded to it briefly in your response to Mr Mahoney, I think, in terms of returning to work, the fact that workers, if they don't cooperate now—the legislation under the Workers' Compensation Act is pretty clear right now that if you are deemed or perceived to be uncooperative, your benefits are terminated; services in terms of voc rehab are terminated as well. That has been in the act for a while. So this bill is now putting an obligation on the employer to institute return-to-work programs. In your company where you initially got injured, was there any return-to-work program in place?

**Mr Wilfong:** Like I said, I was 15 years old; no.

**Ms Murdock:** The company you work for now, does it have any return-to-work—

**Mr Wilfong:** There is if there's comparable employment, and that's the key word: comparable. If they say there's no comparable, you're on your way.

**Ms Murdock:** So is there anything like job sharing or sharing shifts or anything like that?

**Mr Wilfong:** No. There's modified duties, but, once again, it all depends on who you are towards management and stuff like that. Certainly, if you're a union rep, there could be problems. I'd like to see where you say it'll force the companies, because—

**Ms Murdock:** The return-to-work provisions?

**Mr Wilfong:** Yes.

**Ms Murdock:** Mr Mahoney was mentioning that there would be—

**Mr Mahoney:** Police.

**Ms Murdock:** He calls them police. I think that it's true that there is an attitudinal situation here where we're going to have to change the perception of the board to be more facilitative than what Mr Mahoney is calling them. I do agree that probably has to be changed. But the fact is that what would happen is that employers would be obligated to have or institute, in cooperation with people at the board who would be trained to do that, return-to-work programs and rehabilitative processes within their own workplaces. If they didn't do it or were deemed to be uncooperative, then they would be penalized. That is part of this. You've addressed it yourself in your comments. So it is part of this Bill 165.

**Mr Wilfong:** I find that even though it's straightforward and says this and that in the act, sometimes it doesn't apply and there are loopholes. That's how I've found it.

**Ms Murdock:** I think that everybody agrees—so far

any of the groups that have appeared today thus far and comments in the papers and so on—that they're dissatisfied with how the Workers' Compensation Board is working to the benefit or detriment, whichever way you want to see it, of the worker or the employer, any of the stakeholders. So it's interesting. I don't know if you were here for any of the other presenters before you, but the whole idea is that everyone agrees that the status quo isn't working, and so change has to occur. The board has to change. How it does that is a question in terms of Bill 165 and what people are talking about today. But I thank you for coming and sharing your views.

**Mr Hope:** A couple of questions I just wanted to ask you. When you say "simple muscle strain," do you want to explain that to me?

**Mr Wilfong:** Where you pull a muscle, soft tissue injuries.

**Mr Hope:** Who gives the assessment of a simple muscle strain?

**Mr Wilfong:** That was mine. Maybe I should correct that. Sometimes, I find anyways, doctors allow their patients just to go on and on and on for six months. I've had my spine fused three times. It takes no longer than three months for the muscles to completely heal in your spine, three months, and I find by pulling a muscle or soft tissue injury, for a worker to be on it still five months later is—there should be some limit, some restriction. It's probably not the best thing to say in this room, but there should be some limits to how long a worker should be able to get benefits.

**Mr Hope:** But who would be the gatekeeper of this so-called simple muscle strain? A simple muscle strain to you and a simple muscle strain to somebody else has different impacts emotionally. Let's look at the impact of an individual.

**Mr Wilfong:** I would hope the family doctor would put some kind of controls on it, but it doesn't seem to be working any more in Ontario.

**Mr Hope:** When you were making reference to 147, it should go further, and you were responding to Mrs Witmer, one of the things you said is based on need. How would you do a based on need, whether a person's entitled to the extra \$200, and even to cover the grey areas you had made reference to? If you're employable and you're receiving a pension already, you're getting two pays, one from a pension program and one from your current employer. Is that fair to somebody who might fall in that grey area who may not even get the \$200? I'm just trying to get a better understanding of where you're coming from with that.

**Mr Wilfong:** Certainly, you could get in my body for a day and take the Percodan and the rest of it and see what's it like. If you think \$300 justifies what I've gone through, it certainly doesn't. The grey areas, I don't know how the comp would figure it out because it's quite massive, I would assume. You would have to go into the background and say: "How much is this person getting? Is it really justified what they're getting?" Because \$300 for me is certainly not justification. If it was a car accident back in the 1980s, I would probably be a very



rich young man right now.

**The Vice-Chair:** Thank you very much, Mr Wilfong, for taking the time out this morning and giving us your presentation.

BRUNO MACRI

**The Vice-Chair:** I call our next presenter, Bruno Macri. Good morning.

**Mr Bruno Macri:** I come to tell you—what I have to tell you I write in the letter you have in your hands. I hurt my back in 1961, October 3, 1961. Since then, they want to operate on me in St Michael's Hospital. I don't agree with the operation because the specialist says only the guy up there knows how you come, better or worse. I say, okay, if the guy up there knows, leave me in the hands of the guy up there, because I don't want you to operate on me. They make myelogram. I have my brains black like your jacket. I've been suffering like God on the cross since that accident.

In 1987, I worked with the separate school board and I slipped on the stairway. I rehurt my back again, and they don't agree with me, the compensation board. They don't agree with me because they say this is the same accident I have before, on the low back. So I have \$29 a month when they figure out how much I make, \$1 an hour at that time, in 1961. I belonged to a union, and I made \$60 a week. They figure out how much they're going to give to me, so they pay me six months and six months, 30%, 50% and they leave it to me like that.

I've been suffering all this pain in my back, in my arm, in my neck, all over my body. God knows how much I lost. For just a little, few peanuts. I start with \$29 a month in 1961 and I reach now, pretty soon 2000, \$292 a month. You imagine how much my family suffers and how much I suffer with that peanuts money.

1150

I want to tell the compensation board I turn 68 in 1988. Now, I want you to recognize all those people been hurt before when a dollar was a dollar. You buy milk, you buy bread, you buy cheese, you buy this, you buy that. Now what they give you today, what is today, the money they give to me? I live with that money they going to give it to me today? I have to ask charity.

All I want is you to recognize all the people like me been working and been hurt and now they are old age, and before they die, I want to see the justice, to you people, to understand all those workers, because if you know God's law, it says give to God what belongs to God and Caesar what belongs to Caesar, if you understand the Bible.

So now they don't give to me, they don't give to the fellow workers like me, and now they want to give \$200 more to the people who are hurt later than me, my heart burns, because I've been suffering since 1961 with that miserable pension, and nobody knows. One time I give Mr Nixon my pay slip, right in front of the Minister of Labour, when he was a Liberal. He said, "Mr Macri, I look after this thing for you." Two weeks later, he return and said, "Well, we can't do nothing. We can't do too much," you know.

Now I write to Bob Rae. He says the same. He invited

me to come here to talk to you like that, so I am here to tell you what happened to me. They want operate on me. I don't agree with the operation because they say only the guy up there knows. So I've been suffering, I'm suffering, I wear on my breast here all the time, every day, and only God knows how much I suffer. Nobody knows. I don't want to screw the people who are 65 and over, because still they have to eat, still they have to see, still have to eat with the teeth and everything else.

I am the same like you and everybody else, after 65. And when you are 65, you don't want to be put on the side, and everybody else don't want to be put on the side, because you still live until God, with his permission, calls you or me to go. I want to be protected. All these people have been hurt when a dollar was nothing. You know, we worked for a dollar an hour. So we have to work. The wages were like that and we have to work. So now they go by percentage. The people working now make \$25 an hour, \$20 an hour. At that time, I was \$1 an hour, \$1.80 an hour. I started work on the pipeline from Oakville to Owen Sound, Midland, Penetang, Staynor, for \$1 an hour when we put the pipeline through all this time.

We started from Oakville. I worked four years with F.E. Shaw Pipeline, \$1 an hour, 13, 14 hours a day. Then I started with Pigott Construction, the North American Life building. See, the steel posts they put in the ground, in the sidewalk, you know, 12 feet from the sidewalk they cut. They send me and another three guys to lift on the pickup, to put them on the pickup. So I grab how much power I have. The other two or three guys, they don't put the same power that I have, and I hurt my back. I crack my last—low back, you know.

Since that, I couldn't do nothing. I can't return no more to work in construction. I was working in Sun Life to clean the desk, like a woman's job, janitor's job. I couldn't make money. All the money I lost. Who do I have to blame for the money I lost all those years, all my life? I spend all my life. And I work another 13 years at Metro Separate School Board to clean the desk. I think I've been suffering like God on the cross with all the pain I have, and still I have to work, because if you don't work, you don't eat.

That's why I want to make justice with the compensation board. If they know how to administrate the compensation board, the government can take it over. So they're private people. We give it to the provincial government to administrate all these things, to be recognized, because we work. We work like a soldier. If you call me to come in the army, I have to come. I have to obey your call. So when I went to work, I have to obey when the bosses say do this and do that. If I don't do it, "Okay, you're no good, go home."

Now most important to me not to screw the people who are over 65 because they are your father. They've been raising you. They've been—everything give to you. Now I'm 65, I don't have to be put on the side, because I'm not a piece of steel, a piece of garbage. I am a human like the rest of the people. That you've got to understand.

Since 1961, I've not been in working in my job no more. So how much money I lost? You figure out how



money I lost. How much they pay me and how much I've lost if I do the same, my job. But nobody understands. Nobody cares. You go to the compensation board, that place, so many times, say: "We review your case. We review your case." They still have to review the case. Still they wait for me when I am here no more, to review my case. So with me, it's thousands of people like me, but they're not here today. Only I want to come to here because Mr Premier said to me to come and tell you what I have to tell you.

I want you to change this bill completely, not insist this Bill 165 for the injured worker. Give less than the people who got \$1,000 a month, \$600 a month, \$700 a month, and give some to me, who got \$292, and a lot of people like me. Don't increase their wages. To increase mine too, because I'm not even dead. If I was dead, I don't pretend nothing, but still I have life, still I have my wife, still I have one child. He's over 21, but I have to give something. Father always give to the kids, and mother too.

That's what I have to say, and the rest is on the paper what I give to you.

**Mr Mahoney:** Just briefly, as I understand it, you're not necessarily, correct me if I'm wrong, asking for the \$200-a-month supplement but you want to ensure full inflation protection for the pension that you currently get.

**Mr Macri:** I ask for the \$200 too.

**Mr Mahoney:** You want the \$200 as well.

**Mr Macri:** Yes, because look how much money I've lost since I hurt my back in 1961. Why I have to be excluded? Why, because I am 65? I don't have a mouth to eat? Or you can put a couple of different stores. You put a Dominion for the people who are rich, you put a Loblaw's for the people who are middle class, you put a Miracle Food for the people who are low, low, low wages, like me.

**Mr Mahoney:** You understand that the Friedland formula, which is the de-indexing, was adopted initially under an agreement with the Premier's own labour-management advisory council to generate an initial \$3.3 billion, which would be used to reduce the unfunded liability. They then took, I'd say, about \$2.5 billion of the \$3.3 billion and they spent it on the \$200. So in essence, what that means is that you and other workers like you are subsidizing the \$200 a month to the other workers, the older workers, as what clearly is a political ploy by Mr Rae and the government to try to hand out goodies, so to speak, to these workers. You understand, fundamentally, that that's how it works?

So management is not happy because it didn't pay down the unfunded liability and all other workers—if you read Thomas Walkom's article in today's newspaper, it's rather interesting. His analysis is that injured workers are indeed funding that and not the compensation board and not the system at large.

**Mr Macri:** I want to be to recognized. Like I say, I repeat to you: With this bill not to exclude all the injured workers, all the people who are on compensation, all the people who are on pension. That's what I want.

**Mrs Witmer:** I don't think I have any further ques-

tions. I think Mr Macri has made his point. Thank you very much, Mr Macri.

**The Vice-Chair:** No further questions? Mr Hope?

**Mr Hope:** No. I just clearly understand where he's coming from. He's been part of an excluded group because of an age requirement, and I think it's something that the committee should seriously look at.

**The Vice-Chair:** Mr Macri, on behalf of this committee I'd like to thank you for taking the time out of your schedule for coming and giving us your presentation.

This committee stands recessed until 2 pm.

*The committee recessed from 1200 to 1401.*

**The Vice-Chair:** Before we get started with our first presenters, it's been brought to my attention that there was a dissenting opinion of the Progressive Conservative members on the standing committee on government agencies' report on the Workers' Compensation Board, April 1994. I believe this was sent to all offices. But some questions were raised yesterday about how the Progressive Conservatives had planned on reducing the unfunded liability and some of their solutions, and there are charts in here. If anybody on the committee wants this, it will be made available to them.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

**The Vice-Chair:** I call our first presenters, from the Ontario Public Service Employees Union, from the president's office. Good afternoon. As you realize, you'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you could leave a little time for questions and comments from each of the caucuses. As soon as you're comfortable, could you please identify yourselves for the record and then proceed.

**Mr Fred Upshaw:** Thank you very much. Let me first of all introduce the people who are with me here. I have to my far left Heather Gavin, the coordinator of our benefits department at OPSEU; Diana Clarke, our Workers' Compensation Board benefits officer from OPSEU; and to my right is Orlando Buonstella, who's a community legal worker specializing particularly in injured workers' concerns. So if we get to the question period, I will rely on the experts to respond to any technical questions that you may have. My name is Fred Upshaw and I'm president of the Ontario Public Service Employees Union, and I thank you very, very much for the opportunity to make this presentation. This brief will outline to this committee the Ontario Public Service Employees Union's concerns and recommendations on Bill 165.

OPSEU is in a unique position to comment on the bill's contents. Not only does our union represent about 95,000 workers across Ontario, but its members also represent the largest number of unorganized injured workers in the workers' compensation system by way of the community legal clinics and the office of the worker adviser.

Bill 165 attempts to deal with some of the more immediate needs in the area of workers' compensation. Important issues around governance have been proposed. However, in its efforts to address certain problems, some

of the bill's proposals will create serious and negative impacts on injured workers if not corrected before passing. In our time today, we will deal with some of the more principal and pressing concerns surrounding this bill. These areas include the \$200 increase, the de-indexing provisions and improvements to the rehabilitation and re-employment sections of the bill.

The proposed \$200 increase: Significant numbers of injured workers live in poverty. Many injured workers have suffered financial devastation in their personal lives when they were not re-employed after their injury. Bill 165 proposes to address this situation by providing a \$200-a-month increase to a limited number of people injured before 1990 and who are unemployed.

We applauded the government's recognition for this need to be addressed. However, the proposed \$200 pension increase continues to leave out some of the vulnerable injured workers. The number is small and the inclusion of this group in terms of funding is not significant. From an equity point of view, there is no reason to exclude these workers.

The exclusion of these workers appears to be based on the decision to identify the recipients of the pension increase by whether or not they receive a special supplement under subsection 147(4) of the act on or after July 26, 1989. While the supplement may be a useful key to identification of the majority of the most vulnerable pre-1965 pensioners, it should not be used as an actual barrier for other pensioners.

We would recommend that clause 147(14)(b) be amended and that a clause 147(14)(c) be added to at least compensate workers who were receiving monthly pension awards and were 65 years and older in July 1989.

We also recommend that consideration be given to how to deal with pre-Bill 162 pensioners who are currently in receipt of permanent pension awards but returned to the workforce and continue to suffer a wage loss due to their compensable disabilities.

The de-indexing of workers' benefits: Bill 165 will change the indexation of WCB benefits to injured workers. OPSEU does not support any de-indexing of workers' benefits. De-indexing shifts the burden of workplace injuries out from the workers' compensation system and into the public social security systems. The decision to implement such a drastic change in de-indexing for short-term political gain without looking at the impact on the long-term system is unacceptable.

At present, these benefits are increased yearly, based on the consumer price index. What Bill 165 proposes to do is reduce the indexation by using the following formula: 75% of CPI less 1%, with a 4% cap. For example, if the CPI increases by 2%, benefits will be adjusted by only 0.5%. A 6% rise in the cost of living will be cut to 3.5%, and a 10% rise will be cut to 4%. Using full CPI indexing, a \$200-a-month pension awarded in 1977 would be equal to \$576.30 today. With the formula in Bill 165, it would only be \$324.

Given the cumulative effect of inflation, injured workers suffering from permanent or prolonged disabilities will be most affected. Even at the low end of

inflation, this cumulative effect is devastating. A 2% inflation rate over four years produces an 8.2% rise in the cost of living, but with the Bill 165 formula, the benefit adjustment will only be 2%. This is an effective cut of over 6%. If we consider that pre-1990 pensions are received for the lifetime of the worker and post-1990 future economic losses until age 65, the change is even more dramatic.

#### 1410

Many observers are unaware of the range of benefits that will be reduced over time by the new de-indexation formula. The minimum benefit level under section 39 will shrink over time. The non-economic loss formula, which compensates for pain and suffering and is already inadequate, will be affected as well. Even such items as clothing allowances will be affected.

The government has announced that "those most in need" will be exempted from de-indexing. In doing so, it is missing the point of inflation protection. This measure was not designed to protect only a special group, but all injured workers. The groups listed for exemption represent only a small minority. Of workers injured before 1990, only about 42,000 of the 172,000 suffering permanent disabilities will be saved from cost-of-living cut-backs. Workers injured after January 2, 1990, are in an even worse position. Only those on a 100% future economic loss, FEL, award will be saved from the cuts, 5.8% of all FEL recipients in 1993.

The unemployment rate among this new generation of injured workers is even worse than that among pre-1990 workers. According to WCB figures, 78.4% of post-1990 injured workers off for one year are still unemployed, according to Employment Study of 12-Month Qualifying FEL Recipients, March 1, 1994.

It's true there are modest improvements in the return-to-work provisions, and these we'll discuss separately.

De-indexation is not an alternative to returning to work. Injured workers have a right to both inflation protection and strong re-employment and rehabilitation measures.

The New Democratic Party has been at the forefront of the struggle to protect injured workers from inflation. In the final report of the standing committee on resources development on Weiler's report in December 1983, their position was signed by Floyd Laughren and Tony Lupusella:

#### "Recommendation 8: Adjustments for Inflation

"The act should include provision for full indexing to inflation, such adjustments to be made according to changes in the consumer price index and to be made at least quarterly and by regulation. In addition, pension levels must be adjusted not only for cost-of-living increases but also to recognize lost opportunities of normal career development or job progression. There is also no justification for freezing an injured worker's income level without regard to the normal anticipated increases which will accrue to his or her peer group."

We agree with the New Democratic Party minority recommendation to the standing committee in 1983.

Rehabilitation and re-employment: Bill 165 proposes



a number of changes to the vocational rehabilitation process. The failure to successfully reintegrate injured workers into the workforce is, aside from poor health and safety practices, the single greatest source of avoidable costs in the workers' compensation system.

OPSEU has always supported the right of injured workers to rehabilitation and re-employment. Workers' compensation is not a handout to workers. It is insurance for employers designed to cover losses suffered by their workers. In return for just compensation, workers have given up their right to sue. Full compensation is not and cannot be negotiable. It includes the right to return to work safely and with dignity.

WCB statistics indicate that the majority of disabled workers who successfully return to work after injury are employed by the accident employer. It must be recognized that in most cases, a successful return to the pre-accident workplace is actually negotiated by the workplace parties themselves. The WCB simply does not enter into the picture. Although Bill 165 does take a step in the right direction by encouraging the active participation of accident employers in vocational rehabilitation and removing bureaucratic obstacles, it ends up taking two steps back through its failure to balance the scales.

The key to a successful return to work is the trust between the workplace parties. Bill 165 offers employers unprecedented access to medical information and an increased say in vocational rehabilitation programs, even when this relationship does not exist. When disputes arise, individual injured workers will be left to negotiate with professional human resources personnel and paid WCB consultants. Even when an employer has flatly refused to re-employ an injured worker, it will now have a continuing right to interfere with that worker's rehabilitation.

**The medical information gap:** The proposed addition to section 51 would allow the release of medical information regarding a worker's physical restrictions directly from the worker's doctor to the accident employer. This is an unnecessary and potentially dangerous innovation.

The key to a successful return to work is not the medical restrictions imposed on a worker but the existence of real and appropriate return-to-work efforts between the parties. Where this exists, the proposed change is not necessary. Employers already have the power to request that restrictions be communicated to them by injured workers. When there is a mutual doubt as to existing restrictions, the board will obtain this information and pass it on to the employer.

The proposed change would pressure injured workers to consent to the release of confidential medical information through threat of sanctions due to a failure to cooperate in vocational rehabilitation. As presently drafted, an employer may request this information even when it has no intention of re-employing the worker.

Employers have already attempted to circumvent sections 23 and 71 of the act. We believe the current proposed wording will only cause further intrusion. There is no need for the employer to be contacting the worker's doctor directly. Through the introduction of a prescribed form provided by the board or via the worker, we believe

the necessary information can be provided to facilitate appropriate accommodation and return-to-work planning.

**Vocational rehabilitation for employers:** The proposed changes to section 53 make no sense as presently worded. The words "and the employer" are simply inserted wherever the words "the worker" appear. As a result, employers are now eligible for WCB assistance in looking for work, and once again the right to access information and be consulted at every step of a worker's vocational rehabilitation program is not limited to cooperative employers. Even those who have breached their section 54 re-employment obligation would be allowed to continuously interfere with a worker's rehabilitation.

These changes should be scrapped. Rehabilitation services exist for injured workers. Period. When an accident employer is cooperating in a worker's rehabilitation, under current legislation and policy the board does consult with that employer regarding available work and to offer assistance in adapting the workplace. In fact, it can do this with any employer who is willing to employ an injured worker. The board is already mandated to share information regarding the worker with the accident employer, no matter what. If anything, section 53 should be amended to make clear that no employer who is not actively cooperating in the worker's return to work is to have any further role in decisions regarding that worker.

As it is, Bill 165 states that the board "may" impose a penalty on an uncooperative employer. Contrast this with the long-time practice of automatically cutting off the benefits of workers who are deemed to be uncooperative. Why this inequality of penalties when employers are much better placed to resolve the problem of unemployment among injured workers?

#### 1420

**Speedy adjudication regarding employer obligations:** OPSEU welcomes the introduction of the proposed subsection 54(11.1). Although the board has had the power to do this ever since the introduction of section 54, this explicit authority will make it clear that the board need not wait for an application from an injured worker before beginning the section 54 process. It is hoped that it will also remove some unnecessary complications, for example, mediation services.

The introduction of mandated mediation services is another unnecessary and potentially dangerous change. It is unnecessary because the board already has the authority to offer these services and has done so for years.

The experience of OPSEU and staff representatives who represent injured workers in this process has not been favourable. The very need for mediation implies the existence of an adversarial relationship. In section 54 claims, this is the result of an employer's refusal to re-employ an injured worker. In fast-track vocational rehabilitation appeals, the board has actually engaged in mediating disputes between injured workers and its own case workers.

The experience of OPSEU members has been that board mediation leads to injured workers' sustained return to work only in the rarest of circumstances. More usually, workers are badgered into signing away their rights under



every employment statute imaginable for a fraction of their entitlement under the Workers' Compensation Act alone. The reason is obvious: The individual worker is only rarely equipped to stand up to his or her employer or the bureaucratic machinery of the board.

Even when a worker is lucky enough to have representation, board mediators have felt perfectly comfortable bypassing the representative and going to the worker directly to encourage a settlement at all costs. It seems likely that even fewer workers would have representatives under Bill 165, given the prohibitive time constraints.

OPSEU cannot and will not endorse these divide-and-conquer tactics. Any mediation must be confined to working out the details of a worker's return to work with an employer, and the worker must have the right to be represented by his or her union or other representative.

In conclusion, there are several provisions of Bill 165 which we have addressed that we believe will have serious and adverse effects on injured workers. We have attempted to focus on the most significant changes required to this bill before passing. They are: extended coverage of the \$200 increase to more workers, removal of the de-indexing provisions and removal of some of the rehabilitation and re-employment provisions in the proposed bill with suggested language changes.

Unfortunately, given the time limitations each group has in front of this committee, we could not comment on the rest of the bill. We hope in other opportunities before this committee in the next few weeks to comment on other areas.

Although we have a number of concerns with this bill, we however fully support the move to a bipartite governance of the system. It is the only way for workers and employers to deal with the policymaking, rehabilitation and re-employment issues and to integrate accident prevention and education at the workplace.

We also support the decision of this government to institute a royal commission on workers' compensation and its future. For too long, governments have attempted piecemeal solutions. We need to take a long and hard look at how we can implement an excellent and fair compensation system for injured workers, if not all disabled people in Ontario. Respectfully submitted.

**The Vice-Chair:** Thank you, and your time has expired. On behalf of this committee, Mr Upshaw, Mr Buonstella, Ms Clarke and Ms Gavin, thank you for taking the time out and giving us your presentation.

I'd like to call forward our next presenter, from the Ontario Physiotherapy Association.

**Mr Ferguson:** While they're coming up, Mr Chair, I'd just like to thank the Progressive Conservative caucus for letting us know exactly where they stand on this issue. Now if we can just nail down the Liberals, we'll have an interesting time over the next few weeks.

**Mr Mahoney:** What's the problem?

**Mr Ferguson:** Well, we don't know exactly where you stand on it.

**Mr Mahoney:** On this?

**Mr Ferguson:** Well, yes.

**Mr Mahoney:** Can you read? I'll get you a copy personally autographed. You can have a look at it.

**Mr Ferguson:** I've got one.

*Interjections.*

**The Vice-Chair:** Order, please.

ONTARIO PHYSIOTHERAPY ASSOCIATION

**The Vice-Chair:** Good afternoon. Just a reminder that you'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you could leave a little time for questions and comments from each of the caucuses. As soon as you're comfortable, could you please identify yourself for the record and then proceed.

**Ms Signe Holstein:** Thank you, Mr Chairman, and our sincere thanks to the committee for the opportunity to appear before you on Bill 165. My name is Signe Holstein. I am executive director of the Ontario Physiotherapy Association. With me is Karen Webb. Karen is a licensed physiotherapist who works in the WCB community clinic system. She manages a community clinic in Stratford and is chair of our association's WCB committee. Our written submission was given to the committee clerk a few days ago. Our detailed comments and recommendations are set out in that submission.

Many health care professions and professionals come together to make the WCB's rehabilitative system work. Physiotherapy is one of the professions that is a critical part of the WCB system. The Ontario Physiotherapy Association was surprised, therefore, and more than a little disappointed that we weren't consulted at all on Bill 165. We were also surprised and again more than a little disappointed that we weren't consulted at all during the Liberal Party's outreach tour that resulted in the paper Back to the Future on the WCB. We think both Bill 165 and Back to the Future overlook an opportunity to save money for the WCB and get injured workers back to full, productive lives in a timely and efficient way, but more of that later.

Our principal criterion for evaluating Bill 165 was: What does Bill 165 do to get the worker back to work in a timely fashion? That's our area of expertise and our area of primary interest. So while our submission comments on other aspects and elements of Bill 165, today, because of the time available to us, we intend to focus exclusively on that question: What does Bill 165 do for the injured worker?

As we said earlier, and as we'll explain in a moment, we think Bill 165 missed a huge opportunity. But first we thought it might be useful to the committee to have a review of how WCB clients access physiotherapy treatment as a backdrop to what we have to say about Bill 165. Karen?

**Ms Karen Webb:** I want to emphasize at the outset, as Signe did, that physiotherapists are not the only health professionals who work in the WCB rehabilitation system, nor do we want to be. Quite often, more than one professional will work with an injured worker. The team approach to rehabilitation, where a range of professions and expertise is available to the WCB, is in the best interests of the injured worker and the objective of cost-effective rehabilitation. We are physiotherapists and we

are here to talk about physiotherapy, but I didn't want the team approach to be lost or ignored.

The traditional method of accessing physiotherapy treatment in the WCB rehabilitation system has been for the injured worker to obtain a physician's referral to a private physiotherapy clinic. In such cases, the physiotherapist assesses the injury, devises an individual treatment plan and proceeds to provide the required therapy within the physiotherapy scope of practice, licensed acts and standards of practice. In such cases, the clinic's remuneration is based on the OHIP fee-for-service schedule for physiotherapy, namely, \$12.20 per visit.

WCB clients can also access physiotherapy care through hospitals on an in- or an outpatient basis, again upon physician referral. In such cases, the hospitals may bill WCB for the services rendered. Again, the allowable charge is based on the OHIP fee-for-service schedule for physiotherapy.

1430

However, the traditional approaches have some readily identifiable problems. It is a fundamental tenet of physiotherapy treatment that early, active and intensive intervention is critical in reducing the time and the cost of rehabilitating the injured worker and maximizing the cost-effectiveness of the rehabilitation process. This meshes well with the WCB's principal objective of returning the worker to productive employment in a timely fashion. The traditional approaches, however, were resulting in long waiting lists and long delays for injured workers in getting a physician's referral to a physiotherapist. Statistics documented in our submission support this.

So in 1989 the WCB introduced the community clinic program as part of the WCB's rehabilitation strategy. Under this program, WCB-approved community clinics provide early, active, intensive and individualized treatment programs to WCB clients. A memorandum of agreement sets out in some detail the criteria that apply to the delivery of those services and the charges that may be billed to the WCB. Community clinics are owned and operated by chiropractors, hospitals, hospital corporations, organizations such as the Canadian Back Institute and so on. But the vast majority of clinics are owned and operated by licensed physiotherapists.

**Ms Holstein:** So what does this have to do with Bill 165? In our view, the WCB delivery system suffers from a major structural defect that Bill 165 could have helped to correct but didn't. This is particularly surprising to us because the Premier, the Minister of Labour and government MPPs who spoke to Bill 165 during second reading in the Legislature said Bill 165 would help get injured workers back to work faster.

Currently, the WCB requires a physician referral before an injured worker can access physiotherapy care. In fact, current WCB policy requires a physician referral for treatments by any health care professional other than a chiropractor. This is required regardless of the venue in which that care is to be delivered. The WCB's own statistics show that, on average, 21.94 days elapse between an injury and a physician's referral to a physiotherapist. This is simply unacceptable in terms of getting

the worker back to fully productive work in a timely manner. Physician referral is also unnecessarily costly. In many cases the WCB is paying two health care professionals to do a job only one need do.

We ask you to imagine the savings for the WCB if the two-step process could be reduced to one, which could happen in the majority of cases. There is no need for mandated, across-the-board physician referral. Physiotherapy is an independent primary-care profession under the Regulated Health Professions Act. Under the Regulated Health Professions Act, physiotherapists are authorized to assess physical function and to treat, rehabilitate and prevent physical dysfunction, injury or pain, and to develop, maintain, rehabilitate or augment physical function or relieve pain. So physician referral isn't required for the general public to access physiotherapy care. Moreover, physician referral for physiotherapy treatment is not required in the long-term care context. The Ontario Medical Association has supported the status of physiotherapists as independent practitioners who do not require referral from any other health care practitioner, including from a physician, in order to practise their profession.

The fact is, to our considerable frustration, the current Workers' Compensation Act manifests the outmoded medically directed model of health care delivery, with physicians as gatekeepers into the delivery system. Bill 165 perpetuates that model. Look at section 8's references to "physician" and "medical information." Look at the reference in subsection 9(5) to "physician" and so on. We think Bill 165 missed an enormous opportunity to bring the legislation and the WCB into the 1990s and into step with RHPA, long-term care and other initiatives and policies being advanced by the Ministry of Health.

We urge the committee to amend Bill 165 and use Bill 165 to further amend the Workers' Compensation Act to replace references to "physician" with "health care practitioner," references to "medical" with "health," and so on. We propose in our approach that "health care professional" be defined as any profession regulated under RHPA. This action would constitute a major advance. Removing the physician referral bottleneck would save the WCB significant amounts of money, get workers back to work faster and more cost-effectively, and inject more consumer choice into the WCB system.

That concludes our presentation. We're happy to respond to whatever questions the committee might have.

**Mr Mahoney:** First of all, thank you for the presentation. Let me add, by the way, and I've got the exact name and address, but you were invited to participate in our outreach tour, and for whatever reason, I don't know if it was communication or whatever—we went to eight municipalities in the province. We didn't send specific invitations to groups. We invited anybody who wanted to come. So perhaps we can clarify that at some point, and I think you have submitted comments on the report which I gratefully received, and I appreciate that.

You raise some interesting points. Of course, the issue of the amendment around the Regulated Health Professions Act would involve more, obviously, than—you're saying all groups that are acknowledged under that



act as providing health care services. That's an area we've looked at in discussing our Back to the Future report, which is indeed a discussion paper as to a possible route to go, and I'm very interested in discussing that. That's not within the mandate of either this committee or the Workers' Compensation Board, however. It would require legislative action by the government of the day to make that change, but I think it's a suggestion that's worthwhile.

One of the things I found in the outreach—and we did have presentations, again without specific invitations, from the OMA, the chiropractors, from a number of different health care professionals, from individual doctors who practise solely on workers' compensation issues all over the province, and we were grateful to receive that. But I believe the real key to resolving the difficulties at the board and in implementing the system does lie in the delivery of health care services quickly: quick identification, quick to get workers returning to work, modified work, involving the health care professionals in making those decisions, all health care professionals, depending on what the area is. As I've said, I'm quite open to doing that.

The concern I have, though, is that I hear you supporting a bipartite board. I hear OPSEU before you lauding the government's "new" initiatives when they're not new at all. It's just re-establishing the status quo with two new, supposedly private individuals being recommended by labour and management to increase the size of the board. Bipartism exists now, which you recognize, at the board.

I wonder why, with your level of competence in this area, which I very much respect, you wouldn't think that the problems around governance should involve more than just two stakeholders. There are more people who have a huge stake in this system than just management and just workers. I think you and your colleagues, who are indeed regulated under the health professions act, would have a stake in the future of this system.

**Ms Holstein:** I think it's not unlike our concerns around governance structures within hospitals in terms of what the role of the board is and the responsibility overall in managing, and the difficulty then of getting adequate representation of those professional groups within the board without making your board very large. Certainly we've preferred looking at professional advisory councils where there is a good mix and a very broad range so that all of the health professionals that are involved are consulted, as opposed to just those who are on the board at any given time.

1440

**Mrs Witmer:** Thank you very much for your presentation. I guess presentations like yours point out the need to advertise and make sure that all of the participants do have an opportunity to comment on the bill before us. Certainly you've made me aware of a few points that I think are worthy of government consideration as well.

You point out here that the current policies requiring the physician referral in the case management are wasteful duplication and that they're out of step with current government policy. I think we would all agree. Would

you just tell us again what needs to be done briefly, then?

**Ms Holstein:** I think, as we stated, if the language reflects a more open referral system and does not reflect a gatekeeper system, that would make a considerable difference.

**Mrs Witmer:** You question Bill 165 coming before the royal commission. You say it prejudices the outcome of the royal commission. Could you just expand as to what it is that you mean?

**Ms Holstein:** If, as we were led to believe, the royal commission will take such a very broad look at the workers' compensation system that much of what we would hope would arise out of it, or some of that, is already being dealt with with Bill 165, is it a duplicative process?

**Mrs Witmer:** I think that's a question that's been asked by many people. So then how would your association more effectively get people back to work more quickly?

**Ms Webb:** If we were given the opportunity to get an injured worker sooner than we are, it would make a significant difference to us. If you look at Ontario right now and the community clinic system, that's a system that gets people in quickly, within five days of referral. That's fast. We're used to waiting lists.

But if you look at the average time from the accident until the patient actually gets a referral from the physician, it's in the neighbourhood of 21 days. Then, if you allow another four or five days for that process to take place, you're looking at 25 to 26 days. That's a long time after an injury. The effect that you can have on an injury is quite dramatic if you can get it soon.

As far as the gatekeeper concept is concerned, it's interesting from a clinical perspective: We have the clients coming to us later than we want them, and sometimes, unfortunately, we can't move them out. We get them out of the clinic system because it's a time-limited program, but the physician sometimes allows that client or injured worker to stay off work for another period of time. That creates a frustration for the clinicians and that's out of our hands. We make our recommendations. They go to WCB. It's gone.

**Ms Murdock:** Actually, I'm not in disagreement at all, although I still haven't given my absolute success on the community clinics model, at least not the way it's working. But I agree with you in terms of moving from a medical model, not only your work, but recognition of massage therapy and other kinds of things that also get a worker back to work much more quickly and capable of doing the job.

My question really is in relation to the comments you made in regard to the consultation. It's more along the line of comments that were made by the deputy yesterday when he was here. Towards the end of his presentation, he stated the board is going to be doing this, so I'm hoping that you will make sure your voices are heard by them. There are representatives from the board here, so I know they're hearing what I'm saying. There will be an expanded vocational rehab advisory committee instituted at the board in terms of working with the language as it



exists in terms of return to work under Bill 165, so that would mean inclusion of more people like you and your advice and opinion. I presume you're going to be making presentations before the royal commission, are you?

**Ms Holstein:** Absolutely.

**Ms Murdock:** I think it's really important that what you said today is said there, because their mandate is the long term. Bill 165 is looking at something that we can do now, and the royal commission is looking at how injured workers and injuries, period, can be looked at through the whole system and the whole medical model. So I think it's really important that what you have said today gets said at that larger, more comprehensive hearing. I would like that to be said.

I think Bill 165 will get the worker back to work faster and with more return-to-work kinds of programs, and it isn't totally reliant on physiotherapy. Not all injured workers require physiotherapy to get back to work, so that should be said too. I don't know if you have any comments on my comments.

**The Vice-Chair:** Briefly, please.

**Ms Holstein:** My only comment about the voc rehab is not to confuse that with the acute phase, because voc rehab comes in at a later stage, so we don't want to lose sight of those early injuries.

Yesterday I was watching TV and I had heard Mr Mahoney talking about the percentage of workers who are back within two weeks, and is it reasonable to even have a claim? You have to think about the window that may open for a profession such as ours, for example, in terms of prevention and education. The person who hurts himself and gets back that fast, there is a great chance that they will do something again unless they learn and are taught the preventive measures. So not to confuse those two areas of rehabilitation.

**The Vice-Chair:** Ms Holstein and Ms Webb, on behalf of this committee I'd like to thank you for taking the time out and giving us your presentation today.

ANA PAVELA

**The Vice-Chair:** I call our next presenter, Ana Pavela. Good afternoon.

**Mrs Ana Pavela:** I'm Ana Pavela. I am an injured worker. I would like to express my concern about Bill 165, an act to reform the Workers' Compensation Act.

Bill 165 says nothing about that problem with the WCB doctor who disagree with the injured worker, threatening doctor that doctor from workers' compensation have conflict of interest, and the rehabilitation centre when doctor did a lot more damage to me than good.

I know this happen to other injured workers. Doctors don't believe the pain and the suffering I was going through. The injured worker end up being paralysed twice; first, by the injury and to be incapable to take care of our family, who was going through suffering; second, by being treated like I am and being harassed by the people from Workers' Compensation Board.

Bill 165 doesn't totally step backward, it doesn't—I'm sorry with my English, because I am speaking from my heart, I come with my heart, with my pain inside. Please

be patient with me. The injured worker is being paralysed twice: first, being injured and not being capable to take care of our family, most going through suffering; second, by treating me like I am a burden and being harassed by the people from Workers' Compensation Board.

Bill 165, it doesn't do stuff for injured worker. This bill will harm more injured workers than do good to them.

The three provincial parties assured full index in 1985. That bill was in adjustment to inflation so that injured workers' benefits stay same year after year, nothing change. How disappointing, how shame, that only nine years later one of these forgotten: Bill 165 is introduced. Do politicians remember 1985? What was important principle in 1985 remains an important principle in 1994.

1450

I'm also disappointed that there is no section of the act that requires specific injured workers' participation to the board of directors. I ask you amend the act to let injured workers group to appoint representation to board of directors, the act to allow the injured worker group participation on the board of directors. How can you reform the act and a system by keeping injured workers out, especially those with permanent disability?

I sincerely hope that you will respond positive to that about recommendations. Thank you for your attention to this important matter.

**The Vice-Chair:** Thank you. Questions?

**Mr Mahoney:** In looking at the bill itself, could you tell me if there is one thing that you would change in the bill that you think would serve injured workers best, just one, the most important item?

**Mrs Pavela:** Well, for me, I think they change in every—each injured person I think have rights the same.

**Mr Mahoney:** So are you referring then to the de-indexing of the pensions, that you think it should be full indexation?

**Mrs Pavela:** That's right.

**Mr Mahoney:** And for all workers.

**Mrs Pavela:** All the workers.

**Mr Mahoney:** Without age restrictions?

**Mrs Pavela:** That's right.

**Mr Mahoney:** If you had an amendment, it would be to that 147 section. Aside from the obvious issues of equality, fairness and equity, is there a particular reason? I mean, there's a big cost to that, of course. You, I think, would understand that the reason the de-indexing is being recommended in the bill originally was a result of the Premier's Labour-Management Advisory Committee decision to cut \$3.3 billion from the unfunded liability. And then they took about \$2.5 billion of that \$3.3 billion and spent it on the \$200 supplement and de-indexed for everybody else.

So if you put the entire indexation, full indexation, back in for all injured workers, aside from the fairness and equity side of it, where I understand the point you're making, I would guesstimate you're looking at somewhere certainly in excess of \$3.3 billion, which was the amount saved by the de-indexing, perhaps as high as \$5

billion if you include all workers. Have you given any thought as to the impact on the system that a \$3-billion to \$5-billion cost would have? And who should pay that?

**Mrs Pavela:** I think employer.

**Mr Mahoney:** Sorry? Employer?

**Mrs Pavela:** That's my opinion, because we are working for them, suffering, so—

**Mr Mahoney:** Thank you very much.

**Mrs Witmer:** Thank you very much for your presentation. It's obvious that throughout the course of the next three to four weeks we will be receiving many presentations such as your own indicating that the changes that are going to be made to Bill 165 do not respond to the needs of the injured workers. And I would agree with you: This bill doesn't address the issue.

But you feel that ultimately, if the issue is going to be addressed, the employer needs to pay. Is that the only solution that you see? I guess that's one of the realities that we need to face. We need to make sure we have a system that does respond to the needs, that will have money in the future for injured workers. We also need to make sure it's funded at a level that the employers in this province can continue to afford. So it's a very difficult question. Is there anything about the operation of the system where you would suggest that some savings could be achieved?

**Mrs Pavela:** Well, even with the operation system, we have so many trouble with those people working for the compensation board, and I don't know: Those people make \$40,000, they don't do the job. If I call 10 times, then leave a message, nobody call back. Maybe just call me one time, they know what I am asking for, then after forget it. That's very hard. Like I say, it is very hard for me because a lot of people like me, they don't speak English, but I was working hard in this country for 28 years, I think I deserve. I pay the tax, I deserve some rights and I deserve some rights to reduce my suffering, too.

**Mrs Witmer:** I would agree with what you're saying, and I think you've identified a part of the problem that this bill does not address, and that is the way in which the system operates. It's because of the inefficiency and it's because of the frustration that people such as yourself experience when they call individuals at the WCB and they get absolutely no satisfaction, they get no response to their phone calls. That's when they start to call the MPP. Then we try to make the phone calls and we try to get the answers to you.

Take a look at all the time and the cost that's involved, because most of our offices are spending half our time dealing with WCB claims, and I don't think that should be. We've got hundreds of people working, but they're not responding to you, they don't respond to me, they don't respond to the employers.

**Mrs Pavela:** That's right.

**Mrs Witmer:** We need to take a look at the whole mismanagement of the system.

**Mrs Pavela:** That's right. I was at Downstown last year, maybe we were 30, 35, 40 injured people, I'm not sure. But a lot of people were there, so many. I don't

know what those people are doing here, are they doing his job, but I think, for myself, they're wasting money too.

**Mrs Witmer:** Well, you just have to take a look at the fraud review. They hired 17 investigators and they came up with something like nine people convicted. I mean, you've got more staff taking a look and the results don't seem to bear witness to all the money that's being spent, so I hope they take a look at reducing the frustration for people such as yourself. Thank you.

**Mrs Pavela:** Thank you very much.

**Mr Ferguson:** On behalf of the government, I just want to thank you for coming out today. You did an excellent job in presenting your position and we certainly appreciate your taking the time in doing that.

I just have one question for you. The Progressive Conservative caucus has suggested a number of recommendations to the government in the hopes of improving the bill. One of their recommendations and what they have suggested is that we ought to take the benefit level from 90% down to 80%, which would be a reduction in benefits for injured workers right across the board. Would you support that initiative?

**Mrs Pavela:** I don't support that initiative.

**Mr Ferguson:** Thank you very much.

**Mrs Pavela:** You're welcome. Thank you being patient with me, with my English.

**Mrs Witmer:** Your English is just fine.

**The Vice-Chair:** Mrs Pavela, on behalf of this committee, I'd like to thank you for coming today.

1500

#### CUSTOM DOOR AND LOCK SERVICE

**The Vice-Chair:** Our next presenter is from Custom Door and Lock Service.

**Mr Roy Boisclair:** My name is Roy Boisclair. I am service manager for Custom Door and Lock. I'm here on behalf of David McPake, our manager, who is unable to be here. His main concern is that from 1988 to 1992 we were classified as locksmiths. In 1988 we paid 80 cents on the \$100; in 1989 we went to 88 cents; in 1990 we went to 96 cents and the same in 1991; in 1992 we went to \$1.05 and partway through 1993 they reclassified us into the equipment rental/repair at a rate of \$1.39. Now we understand their target rate is \$3.06, which is three times what we paid in 1992. That's almost a 300% increase since 1992 and that is the company's main concern, this large increase and how they justify it.

According to Mr McPake and his records, the company has never had a compensation claim in 15 years.

I don't have to take up too much of your time here. This is the main thing that we wanted to get across, that the increase, to our knowledge, isn't justified, unless somebody has some means of why we are reclassified up into a different group.

**The Vice-Chair:** That doesn't really have to do with Bill 165, but if the committee members want to—

**Mr Mahoney:** I'm not sure it doesn't. I think the whole object of Bill 165 is to reform a system that we all have admitted is broke and broken. If you have a system



where you have no accident claims—not even any files, nothing in 15 years?

**Mr Boisclair:** In 15 years, now, I would have to check our records. I myself would say that someone probably had a piece of dirt in his eye, went to the hospital and the company may not have been on the ball, figuring they've paid for it, and they don't. It goes through compensation in that aspect. But, to my knowledge, there has not been a man off on compensation in 15 years, according to our records.

*Interjection.*

**Mr Mahoney:** I'll leave you time. We've got lots of time.

Do you deal with this situation personally on behalf of the company?

**Mr Boisclair:** No, sir.

**Mr Mahoney:** What about health and safety? Do you have a health and safety program at your place of employment with regard to the handling of equipment or your trucks or any of that kind of thing?

**Mr Boisclair:** The health and safety and that aspect goes under my jurisdiction, where I'm pretty particular of how the trucks are stocked, what type of tools they use.

**Mr Mahoney:** How many people do you have working for you?

**Mr Boisclair:** Around 14, 15 people. We've got seven trucks.

**Mr Mahoney:** Do you provide health and safety training for these people?

**Mr Boisclair:** That's correct, sir.

**Mr Mahoney:** Do you think that perhaps this health and safety training is the reason you haven't had any accidents in 15 years?

**Mr Boisclair:** There is a possibility, sir. I have been in the trade for over 30 years and I am pretty strict.

**Mr Mahoney:** Do you have a manual or do you put out anything—

**Mr Boisclair:** No.

**Mr Mahoney:** —or sessions with your staff? How do you train them on the risks or health and safety—

**Mr Boisclair:** When a new man is hired, I go out with him. If he does not work according to my expectations, he no longer works for us.

**Mr Mahoney:** So here you are, a small business in Ontario providing your own in-house health and safety training for your workers, accident-free for 15 years and you're facing a 300% increase in your premium.

**Mr Boisclair:** That's correct, sir.

**Mr Mahoney:** That is exactly what Bill 165 should be addressing, that kind of inequity and unfairness in the workplace. If you get dinged with this latest reclassification which will put you up to a rate of \$3.06, how many of those 15 people do you estimate you'd have to put out of work or lay off, or for what period of time?

**Mr Boisclair:** That I would not be able to answer truthfully. Our manager, if he was able to be here, would probably be able to tell you more accurately. I assume that he will be back next week and he'd be more than

happy to give you any information of that sort.

**Mr Mahoney:** Maybe you could ask him to give us a letter or something indicating the impact that he feels it may have because, very clearly, failure to address this kind of thing could in fact have the opposite effect of what I would think any government wants to do. That is, it could cost jobs. I think this kind of example, while it doesn't deal specifically with sections of the act or proposed amendments, really highlights the problem from the small business employer point of view with workers' comp. I think Mr Offer has a question as well.

**Mr Steven Offer (Mississauga North):** Thank you. I agree with my colleague. I believe that the presentation which you have made strikes a key aspect of some of the concerns all around WCB, and that's the issue of accountability.

You've now got an ongoing matter through the Association of Ontario Locksmiths where there are 20 to 40 companies involved. Can you give me any indication as to whether those 20 to 40 companies, in your opinion, have a similar work record that you have experienced over the last 15 years?

**Mr Boisclair:** I couldn't answer it truthfully, sir.

**Mr Offer:** Okay. Have you heard any reason as to why WCB would have taken the arbitrary decision of moving this from a locksmith to an equipment rental/repair operation?

**Mr Boisclair:** It was just a reclassification, to my knowledge, that they presented us.

**Mr Mahoney:** They needed more money.

**Mr Offer:** I think that might in fact be the case.

**Mr Boisclair:** That's how I interpreted it myself. When I got into this business in 1960, 1962, we only had seven locksmith companies in this city.

**Mr Offer:** And now?

**Mr Boisclair:** I would say 500.

**Mr Offer:** In your opinion, have the majority of those locksmith companies been reclassified?

**Mr Boisclair:** To my knowledge.

**Mr Offer:** Have all of them have been reclassified?

**Mr Boisclair:** To my knowledge, sir.

**Mr Offer:** Have they taken away the classification of locksmith?

**Mr Boisclair:** They do not classify us as locksmiths now. You see, they reclassified us under equipment rental, and we more or less accepted that aspect. We didn't like it, but now we're being reclassified and they tell us we're going up to a price that's unreal.

**Mr Offer:** As you have been reclassified from locksmith to rental/repair, are you of the opinion that there is no other group that might find itself in the locksmith classification at all?

**Mr Boisclair:** I'm not 100% sure, but I believe back in the 1970s they had put us into what they called the glaziers classification, and it was only when I was with Davies Lock and Door Services that this was brought to my attention, while working for them. I did not see any literature on it. The way we are interpreting it here is



that they're trying to put us into a classification because the volume of companies is getting larger, going into a higher bracket for an income.

**Interjection:** Cash grab.

**The Vice-Chair:** Thank you, Mr Offer. Mrs Witmer.

**Mrs Witmer:** Thank you very much. I appreciate the very sincere and honest way in which you've made the presentation. What I'm still not sure about is, is there still a classification known as locksmith or has it been totally eliminated?

**Mr Boisclair:** You mean with WCB?

**Mrs Witmer:** Yes.

**Mr Boisclair:** That I couldn't answer 100%.

**Mrs Witmer:** I guess that's an important question to determine.

**Mr Boisclair:** I understand, from talking to our manager, that locksmiths were put under the category of equipment and rental/repair. They were more or less amalgamated into it. They didn't have a separate one for them; they just stuck them in there. This is what my interpretation of it was.

**Mrs Witmer:** Which would seem to indicate that the category of locksmith has been totally eliminated and, as a result of being put into another classification, as you indicate, you're paying three times what you paid in 1992.

**Mr Boisclair:** That's correct, and they say that our appeal, which we intend to appeal, cannot be heard until 1996. What was very upsetting was that even if we won our appeal—this is according to the conversation I had with Mr McPake—they would not even reimburse us from now until 1996. This was very, very upsetting because you have no choice but to pay what they say. That's the law; you must do it. We feel it's very unjustifiable that an increase of this amount can be presented to a small company with no justification of why.

I can understand if the majority of the locksmith companies had a really extreme casualty into it, but then somebody should tell us that this happened. Nobody has.

1510

**Mrs Witmer:** That's right. But as you've indicated, in 15 years you're not aware of any claim whatsoever in your company.

**Mr Boisclair:** In our company, according to our records, according to Mr McPake, we have not had a claim. I would say yes, we have had a small claim into your hospitals or somebody's had dirt taken out of his eye or a piece of steel out of his finger. That, yes. He may be unaware that this does get paid by the compensation board and I know it does. He may just think that OHIP pays that and it doesn't.

**Mrs Witmer:** That's right. It is absolutely ludicrous that it would be 1996, as far as a date for a hearing is concerned, which means that you could be paying for three years. Even if it is determined that you would win that appeal, you will get absolutely no refund. That's a lot of money for a small business such as the one that you're involved in. As you've indicated, in the interim, it will probably mean a loss of jobs for some employees.

**Mr Boisclair:** This is what I've been told. I don't see the figures. I don't see what the profits are. My job is to keep my men working. But the thing is that the gentleman who was contacted by the WCB—this is what our instructions were. This is what was going to happen.

I know for the past four or five months Mr McPake has been talking to the association and to other fellow companies and the majority of them, to my knowledge, were in favour of appealing this because it was just not justifiable. A lot of companies are not as large as we are, so if you have a company out there with only two or three employees, it takes quite a bit out of them.

**Mrs Witmer:** I guess the information that you've given us today concerning the impact on the employer and subsequently the employees who may lose their jobs—we heard from the woman who was frustrated in her attempts to contact the WCB—points out I think very well that at the present time the WCB is not responding to the needs of the employers, the employees or the injured workers and the bill we have before us is not going to improve that particular situation.

**Mr Boisclair:** No. That's right.

**Mrs Witmer:** I thank you for your honest presentation today.

**Mr Hope:** Just to go over some stuff, you said you have a joint health and safety committee in the workplace?

**Mr Boisclair:** No, the only safety committee that's there is myself. It's more or less just overseeing that things are as in the safety act.

**Mr Hope:** So, currently you're still only paying \$1.39 per \$100.

**Mr Boisclair:** That's correct.

**Mr Hope:** Your projected target is \$3.06.

**Mr Boisclair:** That's correct.

**Mr Hope:** When I was looking at Bill 165 to find a relationship between what you're talking about it also talks—the presentation the minister made plus what is in the bill is dealing with the experience rating program dealing with the broader aspect of health and safety and vocational rehabilitation. You've never had to deal, according to your comments, with vocational rehabilitation for the simple fact that you've never had an accident.

**Mr Boisclair:** That's correct.

**Mr Hope:** But your health and safety measures which take place in the joint health and safety program that is in your workplace could be under consideration to reduce your target. Correct?

**Mrs Witmer:** They don't have any accidents.

**Mr Hope:** I'm not asking you that question.

**Mr Boisclair:** You're asking me if we presented a health and safety program, that would reduce it?

**Mr Hope:** If you present health and safety measures which are there to reduce accidents—I mean, you're not sure if there were accidents or if there were claims other than the report—to the best of your ability, you know there have been no accidents.

**Mr Boisclair:** I've been a service manager there now

for over five years and there has not been a claim or an accident since I've been there.

**Mr Hope:** So when you were recategorized, you were recategorized with a number of other people who may have had accident rates?

**Mr Boisclair:** That's possible.

**Mr Hope:** But now, in Bill 165, when it deals with the experience rating program you're going to be reassessed, right?

**Mr Boisclair:** That's correct.

**Mr Hope:** So when you're reassessed, your \$3.06 could take into consideration a number of things: your past record, whether you've had any accidents. The rating system also talks about health and safety measures that are taking place. So if you've got good health and safety measures which are preventing accidents, I mean, let's face it, the best thing to cut workers' compensation costs is to have healthier, safer workplaces. That way we could reduce the accidents.

**Mr Boisclair:** That's correct.

**Mr Hope:** But I was looking at some of the history aspect. There have been target rates set for years and none of them have ever been achieved. The government has frozen the rates for the employers for the simple fact that it was politically unsuitable to do so because of economic times. I understand what you're saying about if we go to the projected target of \$3.06, but I'm also indicating to you that in Bill 165 there are opportunities, because you are a safer, healthier workplace, to get your rating system down and even improve your rating system, for instance, through a joint health and safety program, that instead of one person running the health and safety program you have a joint committee.

How many of the 20 employees are office and how many are actually physical labour, direct labour?

**Mr Boisclair:** We have seven trucks on the road, nine servicemen and two in the shop.

**Mr Hope:** And none, through auto accidents or anything, have ever claimed workers' compensation?

**Mr Boisclair:** No.

**Mr Hope:** So, by my understanding of what you've presented today, under the new system, Bill 165, there will be opportunity for you as a workplace to get reductions.

**Mr Boisclair:** That would be appreciated. I believe the reason Mr McPake was upset was that he did contact WCB, and their idea was that they wouldn't tell us whether or not it was because there was a large volume in it. They just said, "This is what you're going to be and that's it," cut and dried. If somebody came up and said, "Yes, there's been, in your industry, a lot of accidents and all that," yes, everybody's looped into one. We agree on that, but nobody can give you any stipulation of how many accidents in the locksmithing trade. They just won't give you an answer.

**Mr Hope:** But what they're basing it on is not in this current legislation, because the legislation hasn't been produced yet. What they're basing it on is current statistics and the change of classifications that have

occurred. With, hopefully, the passage of the legislation, that will relieve the issue that you're talking about, where you've been accident-free for 15 years.

**Mr Boisclair:** It would be appreciated if that were so, if each individual company was taken into consideration for being accident-free and stuff like that and its premiums dropped accordingly. But years ago that used to be in effect until they started amalgamating them in. I can remember in the late 50s it was each individual company that was assessed according to its record, and now it just seems that they just keep putting you into a larger category and up go the premiums.

**Mr Hope:** But now it's been desegregated and moved out. From past practices brought in, and now bringing it back out and trying to focus more clearly on the classifications to make sure that those workplaces that are performing good health and safety measures, vocational rehabilitation and good return-to-work practices receive compliments for their efforts.

**Mr Boisclair:** I agree.

**The Acting Chair (Mr Daniel Waters):** Thank you, Mr Hope and thank you, Mr Boisclair.

**Mr Witmer:** Mr Waters, I'd like a response to the one question: Has the WCB eliminated locksmiths as a category? I'd like the staff to obtain that answer for us. Nobody seems to know.

**Mr Boisclair:** We don't either.

**The Acting Chair:** Duly noted, and we will have the answer for you for tomorrow. Thank you again, sir, for coming before us. I know, as you do, this is a subject that is near and dear to the heart of every worker and every employer in the province. Hopefully, this time we will get it right.

**Mr Boisclair:** I thank you.

1520

#### UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

**Mr Tom Kukovica:** Good afternoon. My name is Tom Kukovica and I'm the Canadian director of the United Food and Commercial Workers International Union. With me are Herb MacDonald, the coordinator of benefits for the union's largest local union, Local 175—40,000 members in Ontario; Pearl MacKay, who is the executive assistant to the president of UFCW Local 1000A, a 12,000-member local here in Toronto, and responsible for WCB health and safety education and research; and finally, John Tremble, our national office researcher. I shall begin by giving you a brief background on who we represent and then outline our comments and concerns about Bill 165. I then look forward to your questions.

The UFCW is North America's largest private sector union, representing 1.4 million workers, 170 of them in every Canadian province. We also represent over 70,000 members, men and women, across Ontario.

The UFCW is a particularly diverse union. We represent workers in both the service and manufacturing sectors, and in terms of the Canadian economy, our members work in more than 20 sectors. The majority of our membership works in retail food stores, but we also



have significant membership in meat and poultry packing plants, hotels, restaurants and clubs, hospital and home care, department stores and beverage and brewing production.

I think it would be useful for the committee if I briefly provided some stats from the Workers' Compensation Board on work-related injuries and illness in industries where our members work. In retail food, sprains and strains and back injuries caused primarily by overexertion affect approximately 30% of individuals in their first year on the job. By occupation, over 30% of salespersons, followed by over 13% of bakers and meat cutters, make claims to the WCB.

In abattoirs, sprains and strains comprise over 45% of compensation claims while cuts, lacerations and punctures comprise over 30% of claims. Back injuries and fingers make up nearly 50% of the injuries, and 30% of the injuries occur due to overextension.

This is just a small sample of the injuries our members face every day across this province. In addition, repetitive-strain injuries are particularly common to people in many different industries, from office workers to cashiers and meat cutters. The UFCW strongly endorses the submission of the Ontario Federation of Labour, which you will be receiving during your hearings in London.

We are encouraged by the announcement of a royal commission to examine the long-term financial implications for the workers' compensation system, including universal disability insurance and entitlement. In this regard, we caution the government that in the event we move towards a universal disability system, it not be left paying for the unfunded liability.

In terms of Bill 165, the UFCW would like to commend Ontario's NDP government for bringing the bill forward. Although we have some reservations, we believe the bill is intended to provide earlier return to work for injured workers, protect the most financially vulnerable workers, while at the same time ensuring the future financial viability of the system.

There is no doubt in my mind that the key to improving our WCB system is that companies must work with employees and their unions to improve workplace safety and health. For the past several years, employers have been dragging their feet in safety training for their employees. Eight months remain before training must be completed in over 20,000 companies covered by the legislation. To date, only 4% of these companies have received certification.

The UFCW is aware that Bill 165 is the result of lengthy bipartite negotiations and as a result has some very positive aspects. These include the new "purpose" clause, which recognizes fair compensation, health care benefits, rehabilitation programs to facilitate workers' return to work as well as rehabilitation programs for workers' survivors. In addition, replacing "industrial disease" with "occupational disease" will more accurately reflect the changing workplaces across the province. We are also pleased by the new bipartite governing structure of the board of directors.

Certain aspects of Bill 165, however, are cause for

concern. To begin with, subsection 8(7.1), which is intended to prevent a worker from receiving benefits for the same injury from more than one provincial workers' compensation system, is vaguely worded. It could be interpreted to include benefits a worker is entitled to through a private disability plan such as those available under residential mortgages. We are suggesting some wording changes there.

Subsection 51(2) requires a physician to provide prescribed information about a worker's condition. We believe the wording should be changed to restrict access to medical information so that doctors only provide information on restrictions a worker is faced with. Further, the wording of subsection (2) should be such that employers can only request information where they have a bona fide joint return-to-work program in place.

Subsection 53(10), which deals with vocational rehabilitation programs, should be rewritten so that a worker's physician is involved in the entire process of a worker's return to work, including the development of a vocational rehabilitation program. Furthermore, in subsection (13), which deals with the period during which a worker receives assistance in seeking employment, the employer who at this point has been unable to accommodate the injured worker should not be involved in the process.

In sections 56 and 61, the chair of the appeals tribunal should not be a non-voting member of the board of directors, for fear of conflict of interest.

In section 103, "experience and merit rating programs," the words should be changed so that the board is rating actual positive vocational rehabilitation practices, as opposed to using mere plans. The focus should be on results because often plans are not implemented. Furthermore, in clause 103.1(2)(c), the wording should be altered so that both workplace parties are involved in the return-to-work process. We strongly believe in bipartite.

A final area I wish to touch on is section 147, permanent partial disability supplements. Bill 165 proposes the addition of subsection (14), which states, "The board shall pay an additional \$200 per month to a worker receiving an amount awarded for permanent partial disability." Unfortunately, this amendment does not cover a small group of workers who were over 65 years old when Bill 162 was passed. Subsection 147(4) excludes these workers who are now over 70 years old and who will be denied the Bill 165 pension increase because of their age. Clearly, this is an injustice and these workers should be covered.

1530

Overall, the amendments in Bill 165 are designed to improve return to work and vocational rehabilitation by fostering cooperation between employers, workers and their unions. Generally speaking, the UFCW is pleased with Bill 165 because, as I pointed out, it represents the outcome of lengthy negotiations between the province's employer and worker communities.

While your committee will undoubtedly hear a great deal about the board's financial situation, as we outline in detail in our brief, the current situation was brought about by an assessment holiday for employers during the



mid to late 1980s as well as by the recessionary economic times in the early 1990s.

The UFCW believes the way to solve this dilemma is by expanding WCB coverage to many new sectors such as the service industry, which we well represent. Ontario has a high concentration of heavy manufacturing, construction and mining, and a relatively low percentage of service sector coverage, which results in a comparatively higher average assessment rate.

The UFCW represents many workers in the service sector who are not covered under workers' compensation. People working in banks and insurance companies, which, as you know, have a high percentage of women workers, are particularly vulnerable in the event of a workplace disability such as repetitive strain injury. They only have the protection that their employers see fit to give them. These workers also lack the protection of the act's re-employment provisions.

In addition, we believe the board should move gradually to a flat-rate assessment with an incentive system that takes account of work being done by the Workplace Health and Safety Agency, of which I'm a director. Assessment rate incentive must be tied to compliance with occupational health and safety legislation, accreditation, and workplace health and safety audit programs.

The UFCW believes that Ontario's workers' compensation system needs revamping in order to ensure its long-term viability. Bill 165 is a good first step. However, the system needs employers working together with employees and their unions to develop and implement improved health and safety training programs. But despite such programs, which will bring down accident rates, accidents will still occur. It should therefore be incumbent on employers to rehabilitate injured workers and get them back to work as quickly as possible.

On behalf of the UFCW, I would like to thank you for the opportunity to address this committee and I will welcome any questions you may have.

**Mr Offer:** Thank you very much for your presentation. I know that time is short on this and I have just a few questions that I'd like to ask.

On page 10 you speak about section 137 and the ability of the board to levy assessments against employers who fail to cooperate in rehabilitation efforts, and I understand what you're saying. On page 3 of your brief you refer to section 51, which talks about the consent of the worker. A physician can request from the worker medical information. Can I get your thoughts as to whether the withholding of the consent by the worker would, in your opinion, act as a form of non-cooperation or uncooperation very much like section 137 and should exact some penalty?

**Mr Kukovica:** If the worker doesn't cooperate, the penalty for the worker is they are cut off benefits.

**Mr Offer:** My question is, under section 51, if the worker does not consent, should that be, in your opinion, an example of non-cooperation?

**Mr Kukovica:** Yes.

**Mr Offer:** You've spoken in the first instance about unfunded liability and your reflections upon how it got to

this particular stage. There have been others who have spoken to us that the unfunded liability, no matter how one wishes to characterize it, does have an effect on the financial viability of WCB to provide the type of benefits we all hope it can provide. Do you believe that issue, the financial aspect, should be part of the purpose clause in order to ensure that the system remains viable for both employers and workers?

**Ms Pearl Mackay:** Basically, no. When we look at it, we think that the current Bill 165 adequately addresses where it is placed within the current bill.

**Mr Offer:** My last question deals with the issue of coverage and that it should be extended to banking institutions and things of this nature. I understand your point on that. I wonder, Mr Chair, if we can ask ministry staff as to whether there is any work currently undertaken which would include some of the groups of employees that Mr Kukovica has alluded to.

**The Vice-Chair:** Is there somebody from the ministry who can respond to that?

**Mr Offer:** I'd like to get a response because I think the presentation brings forward an important point that would be very interesting to many, many people in the province. I'd like to get a response from the ministry as to whether that in fact is now under consideration.

**Ms Murdock:** If I may, that's been explicitly applied to the royal commission for it to look at it. But if you prefer, Mitch Toker from the ministry can answer it.

**Mr Mitchell Toker:** Mitchell Toker from the Ministry of Labour. The ministry's not doing any work on the issue of coverage. As Ms Murdock mentioned, that's an issue that's been referred to the royal commission.

**Mr Offer:** Is there any work being done through agencies other than the Ministry of Labour that you're aware of?

**Mr Toker:** Not to my knowledge.

**Mrs Witmer:** You mentioned in your presentation, on page 8, and of course we need to refer back to where you talked about the unfunded liability, "that during the past 10 years, employers have been on an assessment rate holiday." What exactly do you mean?

**Mr Kukovica:** If you go to page iv, in the introduction notes, you'll see there what I'm talking about. I think in 1984 WCB or the government of the day had adopted a funding strategy for 30 years where the unfunded liability would have been paid off, there wasn't going to be any. They were going to a projected rate. As you can see, because of the employers not being able to cope with a 33% increase, there's been a reduction over the years. As you can see, in 1985-86 there was a limit of 15%, in 1987 there was a limit of 14% put on, in 1988 through 1990 there was a limit of 10% and in 1991 there was a freeze put on the rates. That's what I call a holiday for the employers, because there was a rate established. That was the aim of the rate and we're still not there. So there's been a holiday for employers on that basis.

1540

**Mrs Witmer:** I find your interpretation of a holiday somewhat strange, because we heard from the employers' group that in the past 10 years the employers were very

committed to eliminating the unfunded liability by the year 2014 and they accepted rate increases, as you well know, of 15% and 10%. Personally, I consider those rate increases to be quite substantial. Are you saying that's not enough, we should have hit them harder?

**Mr Kukovica:** What I'm saying to you is that the government of the day in 1984—

**Interjection:** Who was that?

**Mr Kukovica:** Who was that government of the day in 1984? The board had concluded and put a 30-year program in with an assessment rate that they had established of \$3.14, and that would have meant an increase of 33% at that time. The government of that day didn't decide that, so they said it was too much. They put in increases in 1985 and 1986 of 15% only. But remember that the rate they were looking for, the government of that day, was \$3.14.

**Ms MacKay:** It should also be recognized that it was the board of directors at the Workers' Compensation Board that actually came up with these target figures. As you know, at that time the employer community was well represented, more than it is today.

**Mrs Witmer:** But I'm asking you, do you think rate hikes of 15% and 10% are not high? We heard from the gentleman who was here before you that the rate increase that they were going to be incurring, which was three times what they had before, was going to mean that employees would probably lose their jobs. We've been hearing this past year, when the WCB attempted to hike the rates, that small businesses are going to have to lay off employees. Are you not concerned? Do you not see the balance in the system? There's a need to maintain benefits for the injured workers, but there's also a need to maintain the level of the rate that's paid by the employer, and I don't hear you understanding that this balance needs to continue to be achieved.

**Mr Kukovica:** If there were programs of safer and healthier workplaces and programs in place, we wouldn't have as many injuries. That's an economic cost which you're incurring. The second thing I believe very strongly, and UFCW believes, is that there is no price and there is no money that will bring back an injured worker. You have to remember that.

**Ms Murdock:** It's unfortunate that we are dealing with the problems, but it doesn't matter what happened in the past now, because we still have the problem and we have to fix it.

Anyway, I wanted to go to the points you made about the medical restrictions. Your exact words were "restrictions only should be looked at," in terms of the medical report. I would draw your attention to page 4 of the bill, section 14, subsection 63(2). See about the middle of the left-hand side of the page: "Prescribing medical information for the purposes of subsection 51(2)"—which is the medical report—"about the ability of a worker"—and this is what it would be prescribed to—"to return to work and about any medical restrictions affecting the worker's ability to perform work on his or her return."

Does that not answer your concerns?

**Mr Kukovica:** We must have had another version,

because that's not what we were reading at one point.

**Ms Murdock:** If you only looked at subsection 51(2), that's right, you would only see it as a medical report by a doctor, but if you're looking at the prescription required to the medical reports, then I think it answers your concerns. I'm just wondering if you agree.

**Mr Kukovica:** Yes, it does.

**Ms MacKay:** Yes, as long as it's a non-diagnostic medical restriction.

**Ms Murdock:** Yes, it's prescribing the kinds of things that are required to bring that worker and allow him or her to return to work.

**Mr Ferguson:** Thank you very much for an excellent presentation. The Conservative Party, in trying to come to grips with the unfunded liability, has advanced two suggestions to the government. One is that they've suggested that we ought to put a three-day moratorium on any claims, so that if there is a compensable injury, work-related, the clock wouldn't start ticking until 72 hours later. The other suggestion is that we ought to take the benefits schedule of payments from 90% of net pay down to 80%. I'm just wondering what your thoughts would be on those two suggestions?

**Ms MacKay:** First off, in terms of the 72-hour freeze where a worker wouldn't be entitled, what you're going to encourage there is a higher rate of non-reporting, so that at the end of the day, when the worker really can't work any more, they're already well into a permanent disability situation, whereas it's often better for a worker to take time off earlier with an injury onset, so that the recovery time tends to be a lot quicker.

We have many members who continue to work out of fear of losing their job even though they are unionized, the fear that they won't be able to go back and be accommodated at their workplace, and as result continue to work in pain. Specifically, what I'm talking about is repetitive strain injuries where you initially see some symptoms at night. You'll put up with it and tolerate it but not seek full medical rehabilitation until you're well down the road to a permanent disability.

It's got to do with the worker's fear of actually being able to return to the workforce, not at the end of the day and not realizing that actually their injury is actually progressively getting worse. They feel it's getting worse, but don't know that they're actually setting up a permanent disability. With repetitive strain injuries it's very difficult, once you've gone down that road, to get injured workers back to work and accommodated, in particular in the type of industry where we represent members, predominantly in the food retail industry. It sets them up for a non-reporting, which actually is what occurs. Then you end up with a longer duration of time off in terms of WCB claims, because it's the whole rehabilitation process that kicks in etc, which lengthens the time of the claim.

**The Vice-Chair:** Thank you all for coming in.

ONTARIO NETWORK OF INJURED WORKERS GROUPS

**Mr Karl Crevar:** First of all, we want to thank you for giving us the opportunity to be able to address and share our concerns with you.

My name is Karl Crevar. I am the president of the



Ontario Network of Injured Workers Groups. To my right is Mr Don Comi, who is the treasurer of the Ontario Network of Injured Workers Groups, and to my left is Mr Phil Biggin, the executive director of the UIW of Toronto and also the regional vice-president of the Ontario Network of Injured Workers Groups. What I'm going to do today is just briefly outline to you some of our views and concerns that we have with the legislation.

But let me begin by saying to you that I have some difficulty with some of the questions that this panel is addressing to some individual injured workers who do not really fully comprehend the impact when we're talking about a reduction in benefits. We're talking to people who are telling you what experiences they've had with personal injuries. Many of them are in a situation where they would do almost anything to get any increase or even get any benefits, period. I think that is a wrong approach to take with individuals who make presentations to this committee.

I also want to express to you our deepest concern and disappointment at the decision by this committee to hold committee hearings in only four cities in the province. To truly have full understanding of the impact this legislation will have directly on injured workers, it would make sense to hear from those who will be directly affected. It's the injured workers who will be affected by any decisions that are being made.

We ask you, why are meetings not being held in more communities, such as Kenora, Hamilton, Thunder Bay and Timmins, and in areas where communities could afford to participate? To restrict and limit access to only the few who can afford to participate is a disgrace. I want to refer to when Mr Mahoney went around the province initially. You had limited communities that you were visiting. I know of one particular incident where the Thunder Bay organization of the network had appealed that your committee come up to Thunder Bay and be heard. I think it's vital that injured workers and the public at large throughout this province have a right to be heard.

1550

**Mr Mahoney:** We went, Karl.

**Mr Crevar:** Yes, you did. Another point I wanted to address is the time allotted for presentation and questions, a total of 20 minutes. Injured workers cannot tell you the history of their lives so that you will be able to understand how injured workers are affected by any negative decisions, they cannot tell you the history of that in 10 to 20 minutes for you to comprehend and understand what injured workers have gone through as a result of a workplace injury: the negative impacts—psychological, economic and social—that this has had from the time of an injury received in the workplace. An example is the loss of their self-esteem, which they've gone through, the loss of family, family breakups because they're fighting the system.

They cannot return to work and are being thrown on the scrap heap simply because they've had an injury. Many are forced into abject poverty, as parts of this legislation address and finally recognize that injured workers have lived in poverty for a number of years.

Also, in some cases injured workers take their own lives. They commit suicide simply because they cannot cope with the constant attack for something that they could not help, a workplace injury that they sustained as a result of no fault of their own, yet they're being blamed for it.

We call upon this committee to show some common sense, to expand the hearings into other communities in this province, so that you can understand the real truth of what goes on.

The Ontario Network of Injured Workers Groups is comprised of a network of injured work organizations in 34 communities in this province. We range from as far northwest as Red Lake, which is bordering Manitoba, across the northern section of Ontario to Timmins, Ottawa, down through into Cornwall and as far into the southwest as Niagara Falls. We are currently organizing injured workers who have concerns about the way they're being treated, who are finding out about our organization down in the Windsor-London area as well. The problem is not isolated. It's widespread and it must be addressed.

For many years injured workers have had to strive for justice and dignity that was lost simply because of workplace injury or disease. The most serious problems that are facing injured workers today are those of poverty and the right to return to work, to be able to go back to work. I find it ironic that some time ago there was X number of dollars, a large sum of money that was spent to find out what the most common problem is with injured workers, what it is that they wanted. All we want to do is to go back to work once we're well. That's what we want to do.

Prior to the introduction of Bill 162, over 40,000 workers on small WCB disability pensions who remain unemployed today require social assistance benefits in order to live. Since the introduction of Bill 162, of those workers considered eligible for the FEL, the future economic loss award, 78 per cent remain unemployed today. When we look at the provisions in the legislation to strengthen the re-employment, which we support, they do not go far enough. Quite frankly, when you look at the rate of the unemployed, of injured workers not returning to work, it's because employers are not re-employing them. They're not fulfilling their obligation to re-employ. The legislation must address that in a very progressive and strengthening manner. The employers must re-employ their injured workers.

That does a number of things, and it makes sense to me, as it should to anyone, that once you get a worker back to work it doesn't cost you as much in your assessments. There is a benefit. We are still useful people after we are injured. Statistics show that in terms of absenteeism and safety in the workplace, injured workers become more aware because they have something to prove: that we are still human beings and that we are still productive and that we can still be of benefit in the community.

Again, as I stated earlier, although we support the government's initiative of re-employment obligations, it does not go far enough. Workers with disabilities face major income reductions in the manner that the WCB uses, the deeming provisions under Bill 162, deeming workers on to jobs which are not available to them. The



result is an unemployment rate of over 40%. That's much, much higher than the national average of able-bodied people in this province.

So when we talk about an area of concern for employers, the purpose is to bring injured workers back to work. They must have an opportunity and be brought back to work.

Another area where we have concern is in experience rating. We have written submissions to the Workers' Compensation Board, when submissions were being taken, to eliminate experience rating, because what we had seen is that experience rating was being used by the employers to challenge entitlement to benefits and to appeal claims. Also, it encouraged injured workers not to file a claim.

I admit I don't fully understand the total meaning of experience rating, but I can assure you that when we deal with injured workers who have had problems with employers as a result of the use of experience rating, there's something wrong. Someone is not using what experience rating is intended for.

Further, it is also ironic to see that the rebates or surcharges, the staggering amounts of last year alone, amounted to approximately \$250 million to \$300 million, and yet we still see high unemployment and an unacceptable high rate of claims for workplace injuries or diseases.

Yes, you may challenge those figures, and I've heard that the recession has had some impact. Yes it has, and as a result some of the claims have come down. But those figures do not indicate that in actuality accident rates have gone down, because when you have a 10% or 15%, whatever the figure you want to use, drop in unemployment and then you have a 5% reduction in workers claiming for compensation benefits, that does not mean that the workplace has improved to eliminate accidents.

We support the intent of the legislation on health and safety. Again, we emphasize it must be strengthened even further to ensure the effectiveness of any incentive for good health and safety practices.

There are some employers in the province of Ontario who are good employers, but generally speaking, when you look at the problems within the workers' compensation system, the number of claims for injuries, which is still too high, there's something wrong. Something just doesn't jibe. We need better legislation to ensure that.

We have some very serious concerns with subsection 51(2), which deals with the prescribed medical information. It is our view that an employer should not—and I repeat, should not—have access to the worker's medical information. We see this as a very dangerous precedent-setting which infringes on the privacy of patient and doctor relationship.

1600

The reason we have become very wary of that is that under the current act there are provisions where access may be in order to get medical information. But what we had seen is that when employers obtain that information, when we have some hot-shot consultants who go to

employers and say, "We'll take the claims and get benefits back for you," that's been used against them. I refer again to the experience rating. That's been abusing, in our view, the system that was put in place to deal with it fairly.

If any information at all is to be provided—and it should only be provided, in our view, to the Workers' Compensation Board—by the worker's doctor for the purpose of establishing an approved program, it must contain no diagnostic or other medical information. It should only refer to the ability of the injured worker, the restrictions. It should refer primarily to non-diagnostic. It should have nothing to do with any pre-history of medical condition. That is a matter of privacy between the patient and the doctor.

We have other questions that were raised on the matter of consent by the worker. Will the worker be deemed uncooperative if no consent is given? The legislation, in our view, is very vague in this area. I think as Ms Murdock had pointed out yesterday, there are provisions already under the Workers' Compensation Act of how uncooperation is dealt with. We fear that, again, injured workers will be subjected, that if they do not consent to this information, they will be cut off their benefits. This has happened in the past, and under this proposed legislation, we see that as continuing to happen. We recommend that provision 51(2) be deleted.

Under 58(1), duties of the board of directors, we feel that this provision of the legislation will take away from the spirit and the intent of what was intended by Justice Meredith, that is, to provide full compensation for workplace injuries and disease. Someone has to be held accountable, and financial responsibility should not be used as a means of determining entitlement. The intent of the act, and I remind you workers gave up the right to sue, was to compensate for workplace injuries.

Other concerns include whether subsection 8(7.1) eliminates the value of private disability insurance. Quite frankly, we really don't know the legal implications of that. We would like to be able to get some feedback from you as to how that applies. I know there have been some discussions earlier today.

We feel that under subsections 53(10) and 53(13) an employer should not—and I emphasize the word "not"—be allowed to interfere in a worker's vocational rehabilitation. The purpose is to get an injured worker back, and the role is by the worker, the doctor and the Workers' Compensation Board to ensure that that happens, not the employer.

Under subsection 72.1(1), mediation services, the questions that we have—it seemed to us it was not very clear in the legislation—is once a decision is reached, can that decision be appealed? To whom and to where?

Subsection 22(1), subsection 76(3), liability: We feel very strongly that members of the board, employees of the board, who make improper or wrong decisions that have devastating effects on the lives of injured workers simply because of a bad judgement call should be held liable.

There have been too many cases, and what we see is

many, many appeals in this system. I think Mr Mahoney has talked about it, I think Ms Witmer has talked about it and I think a lot of the other MPPS have talked about the number of claims that are in appeals, injured workers seeking help in an appeal system that's backlogged for over two years. Damn it, at the end of the two years when that decision is overturned and it's found that it should have been allowed, something has happened to those injured workers in that two-year span and someone should be held accountable for that.

Bill 165 provides a \$200 monthly increase in pensions. This increase should be available to all injured workers regardless of age. This is not only recognizing, which this legislation has done, the increase of the pension, it is recognizing the justice and equity. It's an issue of justice and equity.

**The Vice-Chair:** Mr Crevar, just to remind you, you have about a minute left if you want to wrap up.

**Mr Crevar:** Sir, as I tried to point out to you at the beginning, it's very difficult to put into 20 minutes what the problems that we see really are, and we are, as injured workers, the ones who are being affected by any negative reforms. I hope you'll be patient. We're getting there.

We do not endorse or support the Friedland formula or anything that would reduce benefits. Injured workers had to fight, go cap in hand, to say that we need the protection for inflation. Full inflation protection of benefits must be maintained. I refer you to the first reading of Bill 81 on December 19, 1985, statements by the then Minister of Labour of the Liberal Party, the Honourable Mr Wrye. I just take some excerpts out of those statements:

"I do want to put on record, lest even today, as 1985 draws to a close, there be those who oppose the concept of indexation and do not recognize the propriety of this action. Let me first put on the record that Ontario is not unique and also that we are not the first."

Professor Weiler at the same hearings stated:

"If the government or citizenry of Ontario is not prepared to justify an explicit reduction in the real entitlement of workers' compensation pensions, to take such a step as a conscious policy they must not tacitly permit the same result to come about by allowing supposedly impersonal economic forces to take their course. This is why I deliberately speak of an adjustment to, rather than an increase in, pension benefits to take account of intervening inflation. We must keep clearly in mind that no real improvements to benefits are at issue here."

"We do no more than avoid an erosion in real income levels we earlier awarded workers' compensation pensions."

The minister spoke again on December 20, just before Bill 81 received unanimous support from all three parties. From the Honourable Mr Wrye—and I want to note that he touched on an important word, "dignity," the dignity of injured workers—

**The Vice-Chair:** I'm going to have to interrupt now. Your 20 minutes is up and, as we've discussed earlier, that will be the limit for each presenter.

**Mr Crevar:** I'm sorry, Mr Chairman. I would like to continue to point out to you particularly the importance—the issues that have been discussed on the Friedland formula and the effect that it's going to have on injured workers. I would like to point out by the wording from all three parties—it's not just one—from all three parties.

**The Vice-Chair:** Let me assure you that the committee needs to have your written presentation, and I'm sure that they will be reading it over in its entirety at their leisure.

**Mr Crevar:** Well, sir, I've been watching the hearings, I've been sitting in on some, and some have extended well beyond the 20-minute time period as well.

**The Vice-Chair:** Not on this committee they haven't.

**Mr Crevar:** Sir, in order to get our point across—

**The Vice-Chair:** The most they've had is two or three minutes over and you've already been over three minutes. On behalf of the committee, Mr Crevar and Mr Comi and Mr Biggin, I'd like to thank you for your presentation today.

1610

NICANOR IGLESIA  
FRANCO LOMBARDO

**The Vice-Chair:** I would like to call forward our next presenter, Nicanor Iglesia and friends. Good afternoon. Just to remind you, you'll have up to 20 minutes for your presentation. The committee would appreciate it if you'd leave a little time for questions and comments.

**Mr Nicanor Iglesia:** I'll try to do my best. I don't want to offend this committee, but I think this committee abused the rights of the injured workers of Ontario, because 10 minutes to explain the problem of the workers that says limitation of the time, limitation of the payments and limitation of everything. That's like fascist countries like I touched before coming to Canada. This is a democratic country, and I think in front of these parties, I have to have more time to discuss these points. But I'd like to be gentle with you and worthy people who accuse the injured workers on many points.

**The Vice-Chair:** Could each of you identify yourselves for the record and then proceed.

**Mr Iglesia:** Yes, sir. Good evening, ladies and gentlemen. Pardon for my languages, just because languages are not only English. I have four or five languages I'm speaking, but this is not for this.

My name is Nicanor Iglesia. I am an injured worker just like many others in this room, excluding the members, you and these others of the resource committee. However, I am an injured worker. I am trying to defend my rights, the rights of injured workers, the rights of my sons and the rights of my friends, briefly speaking, the rights of the injured workers of Ontario.

I am not a Martin Luther King. I'm not a coloured guy, but I see the rights. Who defends Martin Luther King? But I have been an injured worker for many years. I'm a second-class citizen, like in the same way accusing me in the workers' compensation office, which means that I'm an immigrant who came to this country and later I applied for Canadian citizenship. What that means is



second-class. You are the first-class because you're born here, but your father or grandfather were immigrants like I am.

I came to this country in 1963. Since I came here I have worked like a slave—when they picked up the coloured people in Africa and bring here to the United States, the same thing—seven days a week and never less than eight hours, sometimes 12, sometimes 15 hours.

While I was working, everything was okay. I was younger at that time and I had good health and was well trained and experienced in metallurgy. I was speaking four languages. I have experience in Africa. I have experience in Germany. I have experience in Italy. I have experience in a French country, in a Spanish country. When I come here, oh, yes, everything was good. "You have good experience, nice work."

It is for this I come here to defend our rights, the rights of every injured worker in Ontario, and also for those who may be injured tomorrow or in the future. I brought a copy of this letter to the members of the resource committee with the hope that it will reach the hands of Bob Rae and his government, because I see Bob Rae before and he was a good friend before. After he became Premier, I never see. I saw him only one time when his brother was in Mount Sinai. I was having treatment down there. That time I see him, and after that he's depressed me.

When Bob Rae worked for the clinic of injured workers he supported a lot the injured workers. When he was opposition leader, he still supported injured workers. When injured workers demonstrated coming in front of Queen's Park, he came to the front door of this building and accused Liberals and accused the Conservatives, accused everybody of don't do nothing. The Conservatives don't do nothing, the Liberals doing less. There's only one class in this country.

However, for years he has been the Premier—it is now four years—with a majority government and he has not done anything for injured workers: his government and him, nothing. Only he has made a proposal now. When Bob Rae and his party are in election time, they only make promises. Those promises are nothing. When the Minister of Labour, Mr Mackenzie, and the Finance Minister, Floyd Laughren, were in the opposition, they were critical of the WCB, accusing the Liberals of doing nothing—in this room, in this room before—don't do nothing for working class.

I believe that it's the time to ask this government if they intend to do anything at all. Now that the NDP have a comfortable majority, with all the rights, the rich get richer, the poor get more poor, and injured workers suffer the pain, the illness caused by the accidents. Besides the pain, the Workers' Compensation Board of Ontario are also taking our rights. The WCB take the rights of the injured workers away, like cheap insurance for the workers in Ontario, and after the WCB and the government accuse injured workers of abusing the system. I think the injured workers do not abuse the system. Who abuses the system?

I can tell you now, the government is missing the boat and parliamentarians are discriminating against injured

workers and the working people of Ontario. They approve their pensions plan themselves; everybody approve your pensions. Everybody says, "Oh, good pensions for the parliamentarians." Neither don't cut the cost-of-living. The cost-of-living for parliamentarians is full cost-of-living. Only they are cutting the cost-of-living and the benefits of injured workers.

The injured workers make this country, are the people coming to this country to raise up this country, and now, why? The fraudulent realities there are in this I urge you to stop before it becomes law. The cost-of-living can't be taken away. I think is the right of the injured workers because the injured workers fighting a lot for many years for the cost-of-living. Now this government, or the proposal of this government, is trying to take away the cost-of-living. No way. That is wrong, wrong, because the poor get more poor.

We are shocked to see the reason that the PLMAC business caucus gave in proposing cuts to the cost-of-living protection. They said: "People who are not working do not need as much income as those who are working" (PLMAC Business Caucus Proposals, October 20, 1993, Volume 1). Does the standing committee agree with this position? I have here a copy of that. When the caucus proposed that, they said the injured workers don't need the cost-of-living and don't need the same money as the working class. Do the injured workers buy the bread, buy the milk and everything cheaper than the working people? I think not.

1620

Full indexation was supported by all three parties in 1985 and should not be abandoned in 1994, because the principle is the same today as it was in 1985.

Injured workers only suffer the consequences of their accidents because of poor and inadequate safety conditions in the workplace. In the workplaces, like many others before, I never had an accident. In that company where I was working gave me permission to make safety around the place I was working, but I can't make safety around the place I am working. I have to report to the foreman, the foreman reports to the other office and after I left, maintenance repaired that. That's not safety for the workers.

We, the injured workers, have to suffer pain and social discrimination. We, the injured workers, are discriminated in this society when we are injured working for the progress of our companies and this country. Injured workers are working for the progress of this country, for the progress of the companies. When they suffered accidents, they are discriminated. Why?

After losing our health, injured workers are discriminated and robbed by the WCB and others. Don't the injured workers of Ontario deserve a stable social support system without being discriminated because of race, religion, age or sex? Injured workers are human beings too.

Now I will tell how Bill 165 discriminates against older injured workers. Mr Franco Lombardo and others like him have been discriminated by Bill 165 because they happen to have turned 65 years before July 1989.



Not only Mr Franco Lombardo but many injured workers are over 65, and because they are over 65 are not allowed to have the \$200 increase. That is really, really clear discrimination in that thing. This is the date when subsection 147(4) of the act came into effect.

I would like to quote from Mr Lombardo's letter to Bob Rae. He writes the letter to Mr Bob Rae. I point to Mr Lombardo because Mr Lombardo has never stopped fighting for his rights, like have to be injured workers. The problem here is many injured workers lost the spirit with the Parliament, with the WCB and with everybody.

"I want to bring your attention to the fact that the announced changes to the Workers' Compensation Act have left me out in the cold, even if they were not intended to.

"The \$200 increase was supposed to help unemployed older injured workers. Unfortunately, this group was defined by those who get the 147(4) supplement. I was in receipt of the forerunner of this supplement, the older worker supplement under the old subsection 45(7). When the Liberals brought in subsection 147(4) in 1989 those with the older worker supplement automatically received the new 147(4) supplement.

"My specific situation is that I turned 65 before 1989, so my older worker supplement did not have the chance to be called 147(4). Should I now be penalized for being 'too old'? I thought that your intention was precisely to help older injured workers.

"I was injured in 1976 and my pension amounts to \$83 a month." Do you believe that an old man like this one or the other one with \$83 a month doesn't have the right to an increase of \$200 because he's over 65 years old? This is really, really painful discrimination because he won't return to work. "Other injured workers who are younger and have higher pensions will now get an increase while I will not because of an absurd technicality.

"Premier Rae, I would ask you to intervene personally to correct this unforeseen and absurd wrinkle in the law. Please advise me as soon as possible if there will be a change." He's writing to Mr Bob and he's asking for help, but he can't help because honestly, honestly, he can't help.

The person in my riding, when he was in the government, didn't do anything and now he's in the opposition, he doesn't want to do anything for the injured people, for the working class in Ontario. I think those people have the shares in the companies and want the exploitation of the working class.

With that, I don't want to take more time. I believe you understand the letter and everything is here. I won't take up any more of your time because some of those—not you but some of those—probably are interested in that. There are some of those who say, "Oh, these are immigrants. Don't believe a word he's saying." Thanks.

I have the right to vote. My children are here. My children were raised here. My children have the right to vote. Probably when you are on pension or when you are older, you want to step on the heads of the injured workers, and maybe my son should step on your head.

Not only my sons, but the sons of the injured workers.

Thank you. I'm sorry for my poor English.

**Mr Franco Lombardo:** My name is Franco Lombardo.

*[Remarks in Italian.]*

I don't care. I've got \$770.80. I've got a document. I've got an old, sick heart. I've got an injured hand, and the compensation board gives me \$83. I don't cry for money. I've got my son helping me, my wife, everything. I'm not here for money. You know, thank you very much. The compensation board gives to sick people. I work for 35 years in this country in construction. There are so many workers there. Why discriminate by age? You know, the Conservatives in 1914 gave this compensation board not to make more money, but to take out. Thank you very much.

**The Vice-Chair:** Thank you. Mr Iglesia, Mr Lombardo and your friend, I'd like to thank you very much for your presentation this afternoon.

**Mr Iglesia:** My English is poor and I'm sorry for that, but I think it's my right to explain to you and to defend the rights of the injured workers in Ontario. I accuse those who defend only the companies because in this country, honestly, after I'm working in many countries like I said before, this country is really poor, poor. I didn't leave before the accident from this country because I think it's a future country, but it is coming and is coming. The government doesn't do anything. The MPs don't do anything. I think this country was a good country before, but now I don't know. It's missing.

**The Vice-Chair:** Let me assure you that you got your message across quite clearly. Thank you very much.

**Mr Lombardo:** Thank you very much.

**Mr Iglesia:** Do you have any questions?

**The Vice-Chair:** Our time's up right at the moment.

**Mr Iglesia:** Okay. Thank you.

1630

#### EMPLOYERS' COUNCIL ON WORKERS' COMPENSATION

**The Vice-Chair:** Our next presenters are from the Employers' Council on Workers' Compensation.

**Mr Jim Yarrow:** With me to day are Ms Elizabeth Mills, director of policy development of the Automobile Parts Manufacturers' Association; Mr Brian James, president of the Canadian Rubber Association, and Mr Les Liversidge, who I'll introduce properly in just a moment.

While we appreciate the opportunity to appear before this committee, we wish, as have others today, to express our concern over the length of time being allotted to us. While we understand that there has been a huge demand, we believe the committee could have sat for a longer period of time to reasonably accommodate all speakers.

The Employers' Council on Workers' Compensation is a non-partisan coalition of employer associations, employers and experts in the workers' compensation field, representing the interests of over 100,000 employers. Our members represent all sectors of the economy and include large and small business. We'd ask

you to refer to our membership list in your package.

Our mission statement succinctly captures the spirit of our appearance before this particular committee today: To foster and promote better treatment, rehabilitation and reinstatement of injured workers through the workers' compensation program; to carry out necessary research and to consult with other interested parties to make the program as effective as possible; and to ensure that the workers' compensation program is sustainable from an economic point of view over time.

On May 18, the government introduced Bill 165 to amend the Workers' Compensation Act.

You've heard from the minister that Bill 165 addresses many of the serious problems facing the system, that it tackles the critical financial issues and that its very foundation is based on an agreement reached between business and labour following an extensive consultation.

We wish to advise you today that Bill 165 does none of these things. The reform plans of the government ignore the depth of the problems facing the WCB and put off to another government, on another day, the true task of reforming the system. At a time when leadership is needed, when courageous political action is essential, the government has chosen to tinker and fiddle, while the system faces insolvency and workers' benefits and Ontario businesses are put at certain risk.

At the ECWC, we thought it was important enough that we founded another committee; it's called the business action committee. The balance of our presentation here this afternoon will be led by Mr Les Liversidge, chairman of our BAC.

**Mr Les Liversidge:** Thank you very much, Jim. I would like to introduce you to the package that I have just arranged to have handed out to you. On the left-hand side is a copy of the remarks we'll be making today; immediately behind that is a sheet offering some data on the status of the Ontario workers' compensation system, followed by a sheet detailing the membership of the ECWC.

On the right-hand side there are several documents. Immediately at the top is a detailed overview, clause-by-clause analysis of Bill 165 prepared by the ECWC, followed by material we released yesterday at Queen's Park in a press conference. Immediately behind that is a document entitled *Agenda for Workers' Compensation Reform*, which is an outline of the policy position of the ECWC concerning Bill 165.

In view of the time limitations here we won't have time to get into these documents in great depth, but I would encourage all members of the committee to please read them, to consider our point of view.

In this presentation I will be focusing on why the business community does not support Bill 165 and what responsible actions are immediately required on the part of the government to continue with acceptable and needed reform.

Yesterday the Minister of Labour explained to this committee that there is unanimous agreement that the system needs reform. He's absolutely right. There's no question about that at all. But he also suggested that the

Bill 165 reforms have their genesis in the work done by the Premier's Labour-Management Advisory Committee. He went on to inform the committee that last year the rate of unfunded liability increase slowed and "the situation has stabilized," and these changes are brought forward in, and I quote, "an atmosphere of progress and optimism."

We wish to advise this committee today that there is no such atmosphere of progress or optimism. In fact, if anything, the reform process has introduced a climate of apprehension and suspicion. The so-called labour-management accord, which the government places so much stock in, in reality simply no longer exists. The very foundation of the government's reform was built on a house of cards that has long since collapsed. Incredibly, the reform process has shown that a bipartite process, the cornerstone of the government's initiatives, will not work.

There's equally no rejoicing in the slowing of the growth of the unfunded liability. Does it make much difference if you crash the ship against the rocks at full speed or three-quarters throttle? The result is the same, one day soon we're all going to be scrambling for the lifeboats.

We also caution the government that there are new financial obstacles emerging, particularly in the area of the future economic loss awards, which alone could increase the unfunded liability by an additional \$20 billion by the year 2014. You've heard the year 2014 previously in these presentations and I'm going to highlight why that date has such significance.

To put these changes to Bill 165 in some perspective, it is important to review part of the recent history of workers' compensation in Ontario.

There's no doubt that there's a crisis. There's an \$11.7-billion unfunded liability growing at \$2 million per day, but crisis in workers' comp is not new to Ontario. Ontario business realized that a crisis existed in the Ontario workers' compensation system a decade ago. In fact, at that time, just when the unfunded liability was beginning to emerge as an issue, business worked with the board and worked with the government to hammer out a long-term funding strategy to retire that unfunded liability to zero and business did that by accepting yearly increases on assessment rates of 15% per year over and beyond the rate of inflation followed by another three years of 10% increases.

In 1987, there was initially some progress reported. In fact, I'll give you a quote out of the board's annual report of that year where it said, "The unfunded liability is expected to peak, in constant dollar terms, in 1988-89 and decline gradually to zero within the next 25 years."

In the 1989 annual report, two years later, the board reported, "...if the 1989 accident performance is maintained over the long term, it could result in elimination of the unfunded liability seven years earlier—by the year 2007."

Guess what? Business did its part; it kept accident rates down. Not only did it keep them constant at those 1988-89 levels, they declined even further. Lost-time accidents fell from 208,000 in 1988 to 125,000 in 1993,



a decline of 40%, and the rate of injury declined by over 30% over that period of time. Yet costs continued to increase and the unfunded liability absolutely soared. Employer assessment rates increased by over 200% from 1980. Ontario, right now, has the second-highest assessment rate in Canada, the highest assessment per worker at maximum earnings and the second-lowest funding ratio.

The unfunded liability at \$11.7 billion towers over all of the other unfunded liabilities in Canada. If you look at our agenda for reform, page 4, there's a rather startling picture there that shows the Ontario unfunded—absolute huge proportions compared to any other jurisdiction in this country.

1640

Now, recent projects suggest the unfunded could hit as high as \$50 billion by the year 2014, which is the date you remember when it was supposed to have been paid off to zero.

Yesterday, the minister suggested that a 55% funding ratio, to be achieved within the next 20 years, is satisfactory progress. It is not.

To reward years of increased employer investment through higher WCB assessments and years of sustained declines in the accident rates with an unfunded liability larger than the huge debt it faces today, represents a betrayal of the strong business efforts made in the last several years.

The Financial Executives Institute Canada conducted a study of WCBs of Canada last fall and announced this in relation to Ontario, "Benefit awards are significantly out of line with all other provinces and there is little evidence of any board initiatives to bring these costs down."

This spring, the Premier requested that his labour-management advisory committee, the PLMAC, senior representatives of labour and management, look into the mess at the WCB. At that time, we were very hopeful that meaningful reform was now under way and we worked diligently within the PLMAC process to develop sustainable solutions.

Last fall, after an extensive analysis, and you heard directly from some of the people involved this morning, the business representatives on the PLMAC advised the Premier, and I'll quote:

"Workers' compensation in Ontario is in crisis. The system is already technically bankrupt and owes workers \$11 billion more than it has money to pay them.

"Without fundamental reform, there will not be enough money to pay injured workers unless the taxpayer of Ontario assumes the payments."

That's what we're talking about here. This is not simply a business agenda to reduce costs. This is an issue that deals with the sustainability and the viability of the Ontario WCB.

The PLMAC business caucus concluded at that time that the unfunded liability must be reduced to zero, that the target still was mandatory and, to accomplish that, introduced a series of recommendations which were introduced to you this morning by representatives of the

PLMAC steering committee.

In March 1994, an agreement was reached between business and labour to tackle many of the problems. At the heart was the establishment of a financial responsibility framework and a change in how benefits will be indexed for inflation. This is the now infamous accord and, according to the government, is the genesis of these reforms.

This agreement, though, as you have heard, was very short-lived and by late March it was clear that this accord was dead on arrival and it no longer existed. It was quickly learned that the financial responsibility framework had no true support from labour or the government and that business leaders expressed their views directly to the Premier in a letter in April, which read in part—and I'll just read a small quote from that:

"It became apparent that there is no basic agreement between business and labour that the system must be financially sound. During the discussions, labour stated that it does not support the concept that the system is in severe financial difficulty and must undergo significant fundamental changes...."

Other views were expressed directly to the Premier at that time. Our council wrote and said, "The demise of the PLMAC-WCB reform framework is hardly surprising, given the apparent disagreement between business, labour and the government on principles of reform."

The Canadian Federation of Independent Business, a member of the ECWC, said, "...the PLMAC-WCB reform framework cannot be viewed as a landmark deal between business and labour...."

The construction industry, an ECWC member as well, said this, "Mr Premier, it is clear that you do not have the authority to proceed with 'reform' of the WCB on the basis of the failed agreement."

Yet in spite of the fact that at that point in time it was evidently clear that the accord no longer existed, and in spite of the growing opposition within the business community, rather than go back to the discussion table, the Premier announced his intentions to proceed with reform.

On April 14, in the House, he made this announcement: "A year ago I asked my labour-management advisory committee to find areas of consensus around WCB reform and they made substantial progress. Today my government is going to build on that momentum...." We don't know if he's talking about the momentum leading up to the deal or the momentum of the collapse after this deal fell apart.

But under those plans introduced, the unfunded liability will continue to grow. Best estimate right now is \$13 billion by the year 2014.

There's been a bit of a spin put on this that there are going to be some savings. There are no real cash savings. Bill 165 does not bring any cash savings at all and, in fact, costs the system additional cash when it is broke and broken.

The reaction from the PLMAC business caucus was immediate and scathing. By this point, it's obvious that true consultation had broken down and they were com-



pelled to issue a press release denouncing these reforms. I'm going to read two quotes that were released to the media by the senior officials on the PLMAC at that time.

"This is fiscally irresponsible and puts the future security of benefits for injured workers at grave risk," said David Kerr, president and CEO of Noranda.

Mr George Peapples, then president and general manager of General Motors Canada, said this about the substance of the reforms and the process which led up to them: "While the business community has worked very hard to develop proposals to ensure the sustainability of the system, the decision of the government to 'cherry pick' from the agreement has heightened the scepticism that a bipartite process can yield responsible solutions to public policy issues."

Yesterday, before this committee, the minister suggested that compromise is the only way to serve the public interest. Well, I think what's been forgotten is that the accord was the compromise and that very compromise being sought was turned down by the government and, in so doing, the government soiled its very own process.

Rather than admit that it was going too fast, Bill 165 came before us and this bill, rather than addressing the severe financial problems facing the system, provides direct government control over the WCB policy development, rendering frankly the new board of directors completely powerless. It's rather ironic that the very bipartite process which the government is heralding as being the solution to the system is given no real powers.

Worker benefits are increased at a time when the system is broke, adding \$1.5 billion to the unfunded liability. It forces the WCB to expand benefits, having no regard for the competitive implications for Ontario business. We support completely the earlier comments from Mr Gilbert concerning the purpose clause.

The bill also scuttles the experience rating system. The last opportunity remaining for business to reduce costs through positive performance-based initiatives, and I'll momentarily come back to experience rating—I noticed that there was a question earlier on concerning that—and I'll comment on some of the suggestions that are on the table now to amend the bill.

Bill 165 also increases WCB regulatory powers, adding more red tape for business.

Yesterday, the Employers' Council on Workers' Compensation held a press conference here at Queen's Park and we brought with us a number of business people who are directly impacted by these reforms:

Mr Matt Huibers, safety training coordinator for TRW Canada, a firm employing 1,300 people in Ontario and one of the largest automotive parts manufacturers in Canada, said this, after illustrating how his firm reduced their accident rate by over 75%:

"The power of experience rating to reduce WCB costs cannot be overstated. Since it is a predictable performance-based program, interested in the results we achieve, we were able to secure a total corporation buy-in to our initiatives.

"Under Bill 165, which replaces performance-based experience rating with a program more interested in

process than results, our improvements simply would not have materialized. We do not shy away from accountability. Our advice to the government is clear: Experience rating works. We are the proof. Do not try to fix something that is not broken. Our message is simple: leave experience rating alone."

Mr Mark Halberstadt, president of Faster Linen Service Ltd, a third-generation, family-owned business employing 100 people, who expressed that his comments are likely being representative of most self-employed people today, said this:

"Our firm became enrolled in experience rating in 1994 and, for the first time, I was hopeful that my performance will mean a real savings to me. Now, under Bill 165, I'll be forced to jump through hoops and will be embroiled in the last thing I or any other business person need today—more red tape.

"I have been witness to a WCB system that has spiralled out of control for too long, and we must pick up the tab for this financial mess. As my WCB costs increase, I am forced to reduce my costs elsewhere. I am unable to raise my prices. This means fewer jobs and fewer opportunities for the people of Ontario.

**1650**

"My advice to the government is very simple: Leave politics at the door, become responsible, withdraw Bill 165 and accept the sound business advice provided last fall."

The ministry's suggested changes to experience rating simply are not satisfactory. They still eliminate the predictability of the program, undermine the performance-based incentives built in and ensure more red tape and unneeded and duplicative inspections.

It is clear that there is no support for the government's reform initiatives. This summer, the ECWC toured the province to get a feel of how the people of this province felt about the bill. We were in Ottawa, in Sudbury, in Kingston, in Hamilton, in Waterloo, in London, in Windsor and in Toronto on two occasions. The message was unanimous: There is no business support for Bill 165. We've collected over 700 signatures from people who attended these meetings, from business owners, from managers and from disabled workers who came out to our meetings, for a petition demanding that Bill 165 be withdrawn.

That is our advice to this committee. Bill 165 does not hold the answers, it must be withdrawn. We are calling for the government to return to the business recommendations of last fall, to do the right thing and to preserve the system for the future. Those are our comments.

**The Vice-Chair:** Mr Yarrow, Mr Liversidge, Ms Mills and Mr James, thank you for taking the time out this afternoon and giving us your presentation.

ANDY GEORGE

**Mr Andy George:** My name's Andy George, this is my wife Crystal and this is Maria Moschella from Durham region.

I'm an injured worker from Oshawa. General Motors in Oshawa was my former employer from 1975 to 1989 and, of course, I was a member of the Canadian Auto

Workers Union, Local 222, for the same 14-year period.

Due to lower and upper back injuries in 1978 and 1986, I was no longer physically able to cope with the daily repetition that assembly work requires. General Motors discharged me in 1989 because I was not able to perform the job that was assigned to me.

Since my discharge, or for the past five years, I have worked as a security guard in the Durham region. This type of employment pays \$7.25 an hour, or just under \$15,000 a year. While an employee with General Motors, I made approximately \$40,000 a year. That's a pay cut of \$25,000. How many people here today could handle the financial loss of two thirds their income, not to mention the loss of a substantial benefit package?

This is why I am here today, to speak about my concerns with Bill 165. Workman's compensation does pay me a 10% disability pension which is just over \$200 a month. What I earn as a security guard, plus my pension, makes it impossible to keep up. Replacing the cost of living with the Friedland formula gives me great cause for concern. This bill is said to save billions of dollars in the future and it will be at my expense. It can only drive me further and further into poverty. What is next for me, social assistance? The thought of having to apply for welfare scares me to death, because all I ever wanted to be was a productive member of society. Can driving injured workers to this be good government?

In my estimation, the employer is being let off too easily. They have a responsibility to fulfil, and that is why workman's compensation came to be in the first place.

Furthermore, that \$200 does not apply to me, as it does not apply to the large majority of injured workers because, after receiving the 147(4) supplement for two years, I was cut off because WCB said I wasn't old enough. In the future, I wonder how many will be cut off this \$200 and what excuses WCB will invent to do so. This frustrates me even more. It does not appear that the individuals responsible for putting this bill together have any insight or even care about the injured worker's situation. That probably is the most driving force that has brought me here to speak today. Why have injured workers not been given a chance to participate in the forming of this bill, people with firsthand knowledge of the injured worker's needs?

The labour people embraced the bill at first, and now oppose it. They oppose it now because they've been educated on how it will negatively affect the injured worker. If injured workers had been given the chance to have input from the beginning, I do not think labour would have ever endorsed this bill.

My personal situation, the loss of job, money and benefits have brought me here today because I need something positive to come from this bill. At the present time, nothing positive is forthcoming. Thank you for this opportunity to speak.

**Mr Offer:** Thank you, Mr George, for coming before the committee and sharing some of the real-life experience as to what you've gone through and how you view the proposed changes as set out in Bill 165.

I'm going to state this as more of a comment: I think it's important as we go through this particular piece of legislation and work towards the committee of the whole phase of this bill that we hear more from individuals, injured workers, who have been injured through no fault of their own and come before the committee and share some of their experience. I think so far, even though there has been some comment as to the time that the committee has sat, we are under certain time constraints and I think we all wanted to hear as many individuals, groups, businesses and employers' groups, in order to receive as full a piece of information, opinions, as possible.

I guess my question is that it's clear from your presentation that what you want is the removal of the part of Bill 165 that deals with the Friedland formula.

**Mr George:** That's my biggest concern.

**Mr Offer:** It's patently obvious. I'm wondering if you can share with us, as that is obvious, if you have any thoughts as to the particular financial status that the board finds itself in, in terms of the unfunded liability that is projected to continue to grow, and what, if any, suggestions you might have as to how one can deal with your particular situation while at the same time trying to grab the unfunded liability by the tail and hold it back, if not eliminate and reduce it.

**Mr George:** All I can suggest is what's been suggested previously, that all employers should be putting into the WCB system, and a lot of employers are not at this time, from my understanding—a lot of employers aren't carrying their weight.

**Mr Offer:** Mr Chair, we've heard this from a number of individuals and I would hope that maybe ministry staff can provide information as to these particular statements. My understanding is that all employers do pay into the WCB.

*Interruption.*

**Mr Offer:** I'm not asking for an answer right now, but we have heard from individuals as to who is and who is not paying and I think it's important for the committee to receive that information as we deal with the piece of legislation. I think it's important to bring up these areas because we've heard from employers that they are paying in as per their rating and in fact some are receiving rate increases where there have been no accidents on the job even this afternoon. So thank you for that information, and I hope that in the very near future we can hear more on this particular area that Mr George has brought forward.

1700

**Ms Murdock:** A clarification, Mr Offer, just a clarification on the question that you were asking the ministry staff: Are you talking about the groups that are covered by workers' comp or are you talking about employers who are not paying their premium rates at the present time?

**Mr Offer:** I speak of neither. I really just rephrased the point that Mr George has made and I think that maybe Mr George would like to clarify the point that he's made.



**Mr George:** My understanding is that certain employers aren't paying in at all.

**Ms Murdock:** Okay, so it is coverage, then. Like, banks don't pay. You mean that kind of thing.

**Mr George:** Yes.

**Ms Murdock:** Okay.

**Mr George:** From what I hear.

**Ms Murdock:** That's fine, yes.

**Mr Turnbull:** We've heard a good deal of problems both from workers and some of the unions have pointed out too inadequacies in this proposed bill, and also we've heard unanimously from all of the employers that they're unhappy with this.

As you are probably aware, a royal commission has been called for this, although we haven't seen the composition of this. Yet would it not seem reasonable, given the number of problems that people are identifying with this particular bill and the fact that we've been told we will have a royal commission, that we should wait with legislative changes until the royal commission has reported?

**Mr George:** I don't understand a royal commission and what it does fully.

**Mr Turnbull:** A royal commission will—

**Mr George:** Investigate—

**Mr Turnbull:**—presumably tour the province and investigate the problem from a very broad range of people.

**Mr George:** That sounds, probably, a good idea, for input.

**Mr Turnbull:** Yes. Just to pursue your comment that all employers should be brought into the scheme, I would point out to you that the present composition of WCB stems from a 1914 decision, really, to bring industrial workers under a scheme. In a way, it was self-insurance, that the employers would pay into a scheme and as a quid pro quo the worker would not be able to sue the employer.

Those employees who are not covered by WCB still have the right to sue their employer, and I would suggest that they're probably better off today or certainly in the future in the respect that they can go after their employers as long as they're in business, whereas the WCB is so desperately in debt.

My concern is for the future payments for those workers if the debt continues to spiral out of control and also the concern that we're frightening away investments and therefore jobs in this province, because employers are looking at the unfunded liability and saying, "Gee, I don't want to invest in Ontario because I'm buying into this system which may in the end bankrupt them." Could you comment on that?

**Mr George:** It's hard for me. I don't really understand this fully. I mean, I'm not a government person. I really have no comment to put forward.

**Mr Turnbull:** No, I understand.

**Mr George:** I can understand what you're saying. If I were an employer—you're probably right, you know.

**Mr Turnbull:** Yes. As an MPP, I probably get more complaints about WCB than any other single issue and it's quite clear we've got to address it. I lay the blame at the door of all three political parties who over the years have done the wrong thing with the WCB and now we're in a crisis and I'm really concerned about (a) the employees' long-term chances of being paid out, and (b) the impact on jobs in this province. Thank you very much for coming here.

**Mr George:** Thank you.

**Mr Ferguson:** Thank you very much for appearing here today, Mr George. I could tell by your presentation that it's pretty obvious to anybody who listened that essentially what you're saying is this: You went to work one day; you were injured on the job; as a result of that you could no longer perform the duties that the job required; hence, you were relegated to a very, very small pension for life and you had to take a job that paid probably 50%, 60% less of what you're used to earning. So clearly the system isn't working for you.

**Mr George:** It's failed me, yes.

**Mr Ferguson:** Yes. Okay, thank you. I just want to correct one small part of your submission. In fact, the Ontario Federation of Labour has endorsed the recommendations of the bill as well as a number of trade unions. The United Food and Commercial Workers appeared just before you. I don't think the Canadian Auto Workers are supportive of the bill because of the indexing formula that has been proposed in the bill, and that's maybe where you're getting your information.

So you're suggesting to me then, and what you're suggesting to the committee—I don't want to put words in your mouth, but would it be fair to say that you're suggesting, "Look, the benefit level that is being paid out today for somebody who is injured and can no longer perform the type of work he or she was once doing is just woefully low"?

**Mr George:** Well, certainly in my case. I can only speak for my own case. In cases that I've heard, yes, there are a lot of people who are living in poverty because they are left behind, especially with people who go back to the—the pension started maybe in the 1960s. They haven't progressed and they're way behind.

**Mr Ferguson:** Thank you very much.

**Mr Hope:** One of the questions I got, and this is where, I mean, we just heard from a presentation earlier, from George Peapples, talking about workers' comp and how dedicated he is to it and then I find you worked at GM and now I'm finding that you're out of a job in 1989 because of an injury. The person who spoke in this presentation said about how great they are. I want to know your opinion, as an employee of that factory who happened to be injured one day, the assessment and the vocational rehabilitation that was done to help you enter back into the workplace for an injury that you didn't provoke upon yourself, that was caused by a workplace condition.

**Mr George:** So you're saying, was I treated fairly?

**Mr Hope:** Yes.

**Mr George:** No, I was not. My first injury in 1978,



my lower back injury, I was forced back to work on the same job and of course over time it got progressively worse till it's a chronic injury. The injury that I sustained in 1986 is an injury where—after a while you start compensating for previous injuries. You use your upper back more to compensate for the loss of your lower back, and so I sustained the upper back injury. So it's just a chain reaction. I wasn't treated fairly at first and my employment just sort of tore my body apart, the jobs they offered me.

**Mr Hope:** I'm hearing a lot of concerns about workers' compensation but you would never have had to go to workers' comp if there was proper job placement for you in that workplace. You would have never needed workers' compensation because you would have been making your \$40,000 a year; you would have been comfortable; the pension would be okay, suitable to the injury you had and the moneys you're receiving. I guess the issue is that you're working as a security guard making \$7.25 an hour. If you were still making that \$40,000, or whatever they're making now at GM, and receiving a small pension you would still be able to be suitably providing for your family; at the same time have a modification in work so that you can continue employment. I mean, giving up 14 years, did you say, of employment?

**Mr George:** Yes.

**Mr Hope:** I mean, back in 1989, you guys, what, 30 years and out. So you only got a few more years before retirement.

**Mr George:** I had a few more years, yes.

**Mr Hope:** I'm hearing a lot of allegations against workers' comp, I agree, but before you can get to workers' compensation it's called workplace safety, and if we improve the safety conditions and the practices that are in workplaces we won't have the problem dealing with workers' comp because you won't need it and you won't need to apply.

**Mr George:** For sure.

**Mr Hope:** You're a person who's caught in the system today. There are people who will be, future, caught in the system and what we have to do is prevent them from being caught.

**Mr George:** Yes, we do.

**Mr Hope:** It's the employer's obligation for healthier and safer workplaces and I think that's the important part we've got to try to get across through these hearings.

**The Vice-Chair:** Mr George, thank you for taking the time to bring us your presentation this afternoon.

1710

#### WHITBY INJURED WORKERS GROUP

**The Vice-Chair:** Our next presenters are the Whitby Injured Workers Group. Good afternoon.

**Ms Crystal George:** Good afternoon. My husband's already introduced us. This is my husband and this is our good friend and co-injured worker Maria Moschella.

My name is Crystal George. I am representing an informal group of injured workers from the Whitby area. I am going to discuss the impact of a work-related injury

on the family as a whole and whether Bill 165 is going to change that impact.

My husband has already discussed the specifics of his individual case, and I would like to let you know how it has dramatically affected our lives. Before we got married in 1985 we agreed that our primary focus should be securing our future. We decided that five years of sacrifice was a small price to pay for that security. So instead of an expensive traditional wedding, we quietly got married on a Wednesday afternoon at city hall. A few months later we purchased a semidetached starter home in Oshawa. Our plan was to reduce our debt load as much as possible and, after settlement of the 1990 GM contract, start a family.

By 1990 my husband had sustained a second injury, was no longer employed by General Motors, and we were barely hanging on. In February 1995 we celebrate our 10th anniversary. We are further in debt now than when we bought our house. Bringing children into this mess would be totally irresponsible, and the proposed changes in Bill 165 only increase my sense of panic because I see no relief in sight.

As much as it hurts me to say this, we are lucky we don't have children. I have no idea how families with children cope. To be working towards a better life for your family and then all of a sudden, through no fault of your own, have it ripped out of your hands is incomprehensible. How do you explain to a child that Santa won't be coming this year because Mommy lost her job when she got hurt? Or tell your son that he won't be able to play hockey this winter because, after two years, WCB decided Daddy isn't old enough to receive the supplement? These are just the luxuries. What kind of guilt does a parent go through when supper consists of Kraft dinner five nights a week, the hydro has been shut off or, God forbid, you lose your home? I really don't think I'm made of strong enough stuff to survive that kind of pain on top of everything else.

As if the financial impact wasn't enough, the psychological changes the injured worker goes through are even more stressful on the family. If a marriage doesn't survive, I think that nine times out of 10 it would be because of the mental stress. When injured workers loses their physical and financial wellbeing, their sense of self as a whole is permanently damaged. Through personal experience and group discussions it is apparent that most injured workers withdraw from life. Because they are not the complete person that they were, they think they are nothing. It is easier to withdraw into a protective shell than it is to constantly explain why you are no longer physically able to do something, whether it be throw a baseball or work. Injured workers think that others view them as being intellectually injured as well. They don't want to socialize. They don't want to participate in life.

Because they are physically unable to work at full capacity, they think everyone feels their brains are not working at full capacity, so they don't have the confidence to share their thoughts and ideas.

This isn't in my presentation, but I think it's even more important to acknowledge the injured workers who have shown up here today, the ones who have come

before us, because it takes so much for them to do that, and for the ones that have presented, English is their second language, and I just have so much admiration for those people because I understand what it costs them.

So not only are families faced with financial devastation, but they also have to try to function with the loss of an important contributing member of the day-to-day routine.

Bill 165 is like putting a Band-Aid on a bullet wound. It may do a bit of good for some, but overall we are going to suffer even more.

Business tries to perpetuate this image of injured workers trying to cash in on the WCB lotto. They are not dealing with reality.

Injured workers are not benefiting from work-related injuries and our social programs are suffering because most employers do not want to be held accountable. In no way have we personally benefited from work-related injuries. The only person who has benefited from my husband's injuries is my brother, who borrowed his golf clubs and cross-country skis several years ago.

This great province and the businesses in this province have prospered at the expense of injured workers. We are not fakers and phonies. We are not faceless claim numbers. We are individuals and families with numerous responsibilities, and all we want is to be treated like human beings and be given the chance, once again, to be productive members of society like we were prior to these injuries.

There are a couple of areas of Bill 165 that I feel are heading in the right direction, but they need to be expanded upon, namely:

The board of directors: I feel it is important that business and labour be given equal representation. However, there should be a stipulation that, at all times, three injured workers must be members of this board of directors. For there to be a quorum there must be one injured worker in attendance. As my husband alluded to, no one can better discuss the impact of proposed changes than the injured worker.

Secondly, the additional \$200 per month should be applied to the pension as opposed to the supplement. Only about 40,000 out of 150,000 unemployed, underemployed, pre-1990, permanently disabled injured workers in Ontario will receive this \$200, about 27%. This is a start, but it isn't nearly enough. Also, as we've experienced, this supplement can be terminated.

I just have kind of a smart comment to make, that when these poor, poor employers are jumping through hoops, I sincerely hope none of them injure themselves, because they're going to have a whole new perspective on the ball game.

I thank you very much for the opportunity to express my views.

**Mr Mahoney:** I appreciate the sincerity of your letter and your presentation. When I did the outreach tour that we in the Liberal Party conducted, we heard from numerous injured workers who really gave us very similar stories of frustration, and it just really shows that this system doesn't work for anybody. It does not work

for the injured worker. It does not work for the employers, who are facing massive increases in their premiums. We had a letter earlier today from a locksmith who's seen a 300% increase in his premiums, a small business, 15 employees.

Maybe you could comment because on the bottom of page 2, and maybe you don't mean this as harsh as it sounds, perhaps taken in its own context, you say that most employers do not want to be held accountable, and my experience is, that's not the case.

In my report we recommend very strongly not reducing benefits, that reducing benefits is more psychological than anything else to try to satisfy some hunger in the media and from certain people in business that this is how to fix the system.

My experience is that even reducing benefits from 90% down to 80% would probably generate very little money with regard to reducing the unfunded liability, and you're doing it on the backs of the people who need the help the most. So I just want you to be clear that our party is very much opposed and has not supported reduction of benefits.

1720

At the same time, though, it's my experience that the employers see that a reduction in accidents, an increase in return to work, better health and safety, all of those things coupled together should improve their bottom line because it will reduce time lost to injury, it will reduce all of the tension and the stress and the aggravation that occurs from dealing with an injury, both on the part of the worker and the company. I would reverse the statement and say to you that I believe most employers do want to be held accountable and want to fix this system, just like I believe most injured workers are legitimately injured and simply want to go back to work, and I think the rhetoric sort of on both sides just tends to throw gasoline on a flame. Somehow we've got to stop doing that.

**Ms George:** I think that the employers would certainly be held accountable if it didn't cost them anything.

**Mr Mahoney:** Not anything.

**Ms George:** Okay.

**Mr Mahoney:** It costs them a lot of money.

**Ms George:** Health and safety, that's something that should be done, even if there wasn't all of the cost and all of the premiums to WCB. Health and safety is something that should be done because we're human beings and we should look out for each other. A lot of them do not want to modify jobs, especially on an assembly-line type of job because it involves so much, and their bottom line is profit, and it galls me that so many large companies get these equity awards and that's not the reality. They're talking out of the sides of their mouths. This is the reality: fourteen years with General Motors, 14 years. This is the reality. When it was proposed to them to modify a job, that would create too much of a hardship.

**Mr Mahoney:** Do you know that the average cost of a claim in Ontario workers' compensation is \$24,000? The average cost in Canada is \$12,000. The low in one



of the eastern provinces, and I apologize, I don't know which one it is, is \$6,000. We are double the national average in cost in the largest, what people would call the mother, of all compensation systems, certainly in Canada. Do you see that maybe there should be an effort to reduce the cost of those claims, eliminate some of those claims, process them faster?

I've made a recommendation of two weeks of voluntary self-insurance, voluntary on the part of the worker and the company so that the claims can be dealt with during that two-week period, because 72% of injuries that are filed with workers' compensation are finished and back to work in two weeks. In fact, it's the 5% that drive a huge portion of the budget at workers' compensation, the bottom 5% that are the hardest to fix, may never be fixed, may never be solved. So it's the vast majority, probably over 80%—this is the 20/80 rule. Twenty per cent of the claims drive 80% of the budget, so if you can concentrate on those 20%—which your husband would fall into; hopefully not into the 5%. So how do we get at those costs of claims?

**Ms George:** How many of the 80% eventually fall into the 20% because they're pushed back to work before they're completely healed? I agree with you that something has to be done. I agree with Mr Turnbull's comment that it's not enticing employers to Ontario who are going to help with our economy and everything else, but I don't think the answer is striking at the injured workers. I think that a lot of the answers lie with the structure of WCB, how the claims are handled. For instance, one extremely big thing is the doctors. There is absolutely no reason that our own general practitioners, our orthopaedic surgeons, our own specialists, cannot make the necessary recommendations.

When we received my husband's WCB file, an adjudicator sent a memo to a medical adviser with his injuries and a description of the job. That medical adviser never interviewed my husband, never talked to him, never talked to him about the job that they were trying to make him do, and said, "He can do that job." Benefits are cut off, appeal process starts.

**Mr Turnbull:** Look, there's no doubt about it, we've got a problem in terms of who adjudicates these claims at the moment, but I would put it to you that—

**Ms George:** I can't hear you.

**The Vice-Chair:** Mr Turnbull, would you please move closer to the microphone?

**Mr Turnbull:** Sorry. One of the problems, if you have your own family doctor adjudicating it, there's many situations where the family doctor would feel obliged to say yes, they agreed with the claim, even if they didn't. It is good to have some separation, but I think it should be trained medical staff who are making these determinations, not somebody who's a penpusher.

**Ms George:** With all due respect, I do not think the doctors at the WCB are trained medical professionals. In all due respect, okay, I do not. I think all doctors have to qualify under the College of Physicians and Surgeons of Ontario and other stipulations. I know our own family doctor, she is due a lot more respect than that, because

she is very fair. If she thought my husband was malingering in any way, he'd be told about it.

**Ms Murdock:** Thank you for coming. I admire you, because I know even though you think that it's just the injured workers who are nervous when they come before here, I meet some of them out in the hall afterwards, many of the presenters, because it's such a different format. So I know how nerve-racking this is.

I just wanted to clarify a couple of things. For instance, the \$200 is on the pension; it's not on the supplement. Those who are getting supplements will be eligible for the \$200, as well as others, but it's attached to the pension. So I just wanted it clear from your presentation.

A number of people—I noticed that you were here throughout the afternoon, but even this morning when we were listening—were making comments about the structure of the board. So your comments are not new. I think that the governance section of Bill 165, which will change how things are done, will probably address some of those, but we won't know. You make changes and you hope that they will work to the way you want them, but we'll find out as it's put in place.

Your comments about the health and safety committees I think are extremely important and need to be emphasized, because it's been proven time and time and time again—as you've said and even alluded to in your husband's comments, but then you said directly—health and safety reduces accidents. You reduce accidents. It saves money on the Workers' Compensation Board. It saves employers' accident rates.

But Mr Mahoney made a comment and I wrote it down as he said it. He said, "You have to reduce the cost of claims by getting people back to work." You can reduce the cost of claims by getting people back to work sooner. I know what your comment was that you sometimes get them back to work too soon and that they reinjure themselves and then you end up with a recurrence at the board and you go through that process. That's true for some, but there are many that the sooner you get them into some kind of health program—and it doesn't have to be a doctor—or treatment program and working on whatever the injury is—and obviously there are different levels of injury. The sooner you get them back to work, then your employer is not paying the workers' compensation benefits. The worker is back to work and feeling self-fulfilled and proud of himself or herself, so that the costs to the Workers' Compensation Board then are decreased. You would agree with that—

**Ms George:** I would agree, yes.

**Ms Murdock:** —recognizing that you don't want to do it too fast, too soon.

**Ms George:** No.

1730

**Ms Murdock:** I wondered, since you seem to have such a handle on the subject, what you think about implementing the whole concept of ergonomics in the workplace, ergonomics being the kind of chairs, accommodating the workplace and so on, and if you could expand on that.



**Ms George:** I think ergonomics definitely has a place within the workplace, but, again, you have to have the employer being willing to implement the suggestions.

**Ms Murdock:** So then what do you think about the requirements in Bill 165 to work together with the employer, the employee and the Workers' Compensation Board to do that?

**Ms George:** My experience has been that when you come to situations where you have the worker, the employer and WCB, WCB sides with the employer. So then you're into the appeal process again. If the injured worker was hopeful that these recommendations would be implemented but the company was refusing, I think the WCB, instead of forcing the company to implement those recommendations, would side with the employer and the injured worker would have to appeal to get those implemented. Okay? Sorry. It's difficult to say. I'm sorry.

**Ms Murdock:** No, that's okay.

**The Vice-Chair:** Ms George, thank you for taking the time and giving us your presentation.

**Mr Mahoney:** Mr Chairman, if Ms Murdock is going to start quoting me, I'm going to have to be more careful and rethink my position. I just want you to know that.

**Ms Murdock:** I wouldn't want to put you under any undue hardship. I wouldn't want you to think too much there.

**Mr Mahoney:** I told you, if you can read—

**Mr Hope:** We're still trying to figure out what your position is.

**Mr Mahoney:** Mr Hope, I'm going to be putting out a movie just for you.

**The Vice-Chair:** Order, please. Good afternoon.

*Interjections.*

**The Vice-Chair:** Could I have a little order, please.

*Interjections.*

**The Vice-Chair:** Maybe we should have a seventh-inning stretch right about now.

#### FEDERATION OF TEMPORARY HELP SERVICES

**Mr Stephen Jones:** Good evening, Mr Chairman, honourable members of the committee, ladies and gentlemen. My name is Stephen Jones. I am the president of the Federation of Temporary Help Services, and my associates are Mr David Stark and Mr Don Braden, staff with our federation office.

Before I start my presentation, I would just like to say that I was very considerate of the time restraints for today, and you have all hopefully received copies of our presentation. In order to stay within the time frame and allow for a few moments for questioning, I will be skipping over some of the paragraphs in the first two or three pages that go to some history and background of our industry and our industry association, but I am confident that you'll take a few moments at some time after our presentation to review that very important information. Our presentation provides background information on the Federation of Temporary Help Services and the temporary help services industry. It also emphasizes that the financial imperatives of WCB reform are not adequately addressed in Bill 165.

The Federation of Temporary Help Services recommends that Bill 165 be withdrawn, at a minimum, and also at a minimum, the purpose clause should be redrafted to restore financial integrity to the WCB system; the Premier's Labour-Management Advisory Committee's Friedland formula should be applied with no exceptions; and the NEER program should not be undermined.

Formed in 1968, the Federation of Temporary Help Services, which I'll refer to as FTHS or the federation, is the only trade association representing the temporary help services industry in Canada. Our membership is comprised of approximately 500 temporary help services offices across Canada, including 300 in Ontario. With an annual temporary help payroll estimated between \$800 million and \$1 billion, temporary help service companies are engaged in the business of supplying temporary help services to virtually every type of business and public institution.

The federation promotes awareness within its membership and the industry as a whole of all legislation and regulations affecting the temporary help services industry, and we address the employment issues both as they affect the employer and our temporary workers as employees.

The Economic Council of Canada reported that employment in our industry increased by almost 250% in the 1980s, to reach about 82,000 workers in 1989. The federation believes that our industry must be viewed as a major and significant Canadian employer.

It's also important to note the definition or distinction between temporary help and part-time work. Temporary work means the full-time performance of a task, although of a limited duration in time. The employee of the temporary help services company normally works full-time at a client's place of work, not at our own place of work, until the assignment has been completed. Recently, in a paper that was published at the Ministry of Economic Development and Trade, Reinventing Work, that consultant at that ministry described temporary workers as full-time workers who are in fact on temporary assignments.

It is also important to understand that the temporary help services firm is the employer of record of the temporary worker. This position meets all the usual common-law tests of the employer of record. The temporary help service firm makes all the payroll deductions of the temporary worker and issues a payroll cheque to the employee. But of particular importance to this particular issue is the fact that the temporary help service is the company that remits the employer's contributions for workers' compensation premiums, not the end-user client of the temporary help service.

The temporary help services industry, through the federation's programs, has actively participated in the development of legislation and standards that are in the workers' and the public's interests. For those of you who are following, I'm at the top of page 4. We are very proud of our constructive contributions to better labour law. We'd like you to consider some of these examples of the federation's recent activities.

We have participated in the reclassification of WCB

classifications and the premiums rating system for temporary employees. We communicate regularly, and I mean very regularly, with the board on behalf of our members and our employees.

We participated in the process to reform labour relations through the Labour Relations Act in Ontario. We made a presentation to the Minister of Labour where we supported the ban on the use of temporary workers during a labour dispute. We recognize the importance of the strike in labour negotiations, and also we were looking to protect the safety of our temporary workers.

When WHMIS was introduced four years ago, we participated in the development of the legislation. Since then, we have worked with the WHMIS in order to develop a customized industry training video and training materials for our industry members.

We have been working with the Ministry of Labour and the Workplace Health and Safety Agency recently to ensure that the application of the new workplace safety legislation is extended to cover our temporary workers so our temporary workers have the same safe work environment as permanent employees.

When pay equity was introduced, we cooperated with the commission in developing an industry standard pay equity plan and an operational manual, and when employment equity was introduced, we began early in the process in consultations with the Minister of Citizenship. We believe the temporary help workforce should be free from all forms of systemic discrimination and should actively reflect the demographics of Ontario communities.

We have always taken a keen interest in the development of public policy. We are here again today with the hope that you will recognize us as a significant employer group, and also with the hope that we will have a positive influence over Bill 165.

Federation members are always concerned about the safety of our employees. Also, when a temporary employee is injured at the workplace, the temporary help service would like to ensure that its employee gets proper medical attention and adequate financial coverage until he or she can safely return to work. From a strictly business perspective, temporary employees are the key business assets of a temporary help service. We wish to protect and to ensure our assets.

The federation unequivocally supports the government's desire to champion the health and safety interests of Ontario workers. But unfortunately the federation cannot support Bill 165, because it does not take into account all the financial imperatives of WCB reform.

1740

Unless the WCB's finances and unfunded liability are brought under control, in the future injured workers will not be adequately compensated and protected during convalescence. In order to narrow the increasing gap between its liabilities and assets, the WCB will be forced to raise premiums. In having to pay higher WCB premiums, employers in Ontario will not be able to compete with employers in other jurisdictions. A flight of capital, job losses and a diminished workforce are standard results of uncompetitiveness. Ultimately, this downward

cycle will lead to the collapse of the entire WCB system.

And if I can be quite frank, if this were Confederation Life, the plug would have been pulled on WCB a long time ago, and certainly an initiative like Bill 165 would be the catalyst to the pulling of that plug. The only difference is, who bails out the government?

**Mrs Witmer:** The taxpayers.

**Mr Jones:** That's correct, the taxpayers.

The injured workers will lose out. Employers will lose out. Ontario taxpayers will lose out, for it is taxpayers of Ontario who will have to bear the costs of WCB's burgeoning debt.

Restoring financial integrity to the WCB should have been the government's primary objective in drafting Bill 165. The government should have stated financial integrity in the bill's purpose clause. The federation does not disagree with any of the provisions which are presently listed in Bill 165's purpose clause, they are all important, but they also should have been balanced with the interests of business and the public at large by making financial responsibility a priority. The government could have used the purpose clause agreed to by the Premier's Labour-Management Advisory Committee. This government can still make that change.

Another measure to restore financial integrity to the WCB would have been the complete and total application of the Friedland formula with no exceptions. The indexing formula of 75% on all claims applied without exceptions would reduce the unfunded liability by \$27.6 billion and produce security of benefits for injured workers. As the business steering committee of the PLMAC stated, the Friedland formula is justified because it is more consistent with other public and private pension schemes in Ontario; it reflects more closely the decline of after-tax incomes since 1988; and the savings are broadly spread among a large population, generating a large savings without significantly reducing the injured workers' benefits.

Subsection 148(1) of the bill includes the Friedland formula, but then it is greatly watered down in subsequent sections, as the indexing formula will not apply to about 45,000 workers. These people will continue to receive full indexation of benefits, and also older workers, their survivors and dependants will qualify for a \$200 increase in their pensions. The intended effects of the Friedland formula were to significantly reduce the unfunded liability, but by increasing injured workers' pensions and by exempting 45,000 workers from the 75% formula, the unfunded liability will not be contained and in fact it will increase. Hence, the sustainability of the WCB will remain very much at risk.

Subsection 58(1) of the bill requires the WCB board of directors to "act in a financially responsible and accountable manner in exercising its powers and performing its duties." While this clause ostensibly suggests that the government is concerned about the financial integrity of the WCB, the reality is that it will be extremely difficult, if not impossible, for the board to act in a financially responsible way when so much of what it can and cannot do is shaped by other requirements of the bill. Bill 165



will increase workers' benefits, adding \$1.5 billion to the unfunded liability at a time when the WCB has a negative cash flow. In other words, the bill contains one huge contradiction. You cannot require a board of directors to be financially responsible when it is limited to irresponsibility written right within the law.

I'm going to move from the financial aspects to the safety aspects for our workers and I'm going to address the issue of the NEER program, the new experimental experience rating system.

NEER has sensibly balanced the dual policy themes of collective liability and employer accountability. Since its inception, NEER has been successful both in reducing the frequency and severity of workplace injuries and enhancing the level of individual liability. This is particularly important to temporary help services companies. Federation members make a practice of conducting a customer safety inspection of their clients' workplaces. By inspecting customers' premises and working with them to implement a cooperative safety program, temporary help companies have helped to reduce the incidence and risk of accidents.

The NEER program has worked for temporary help services, as it has created a much greater awareness among temporary help workers and the clients of temporary help services of the need for safety programs. NEER assists in the development of health and safety programs by imposing financial penalties on employers who do not improve their workplace conditions. Anything that undermines NEER would also affect the incidence of accidents for people, and this is something that this federation cannot support.

The proposed amendments 103.1(1) and 103.1(2) in Bill 165 would permit the WCB board of directors to in effect curtail the impact of the experience rating. Under these amendments, refunds may be eliminated and surcharges increased at the behest of the board through an investigation. The federation supports the position taken by the Employers' Council on Workers' Compensation, the ECWC, on this issue, which is opposed to any move to undermine the integrity of a proven workable safety system, the NEER program.

This submission has highlighted the federation's most pressing concerns with Bill 165, namely, the financial imperatives and the bill's impact on NEER. As a member of the ECWC, the federation fully concurs with the positions taken by the council.

I would like to conclude by summarizing our recommendations: The federation recommends that Bill 165 be withdrawn in its entirety; but at the very least, the purpose clause must be redrafted to recognize the financial imperatives of WCB reform; the Friedland formula should be applied with no exceptions; and the NEER program must not be undermined.

On behalf of the Federation of Temporary Help Services, I'd like to thank you for the opportunity for presenting to you today, and we will remain for questions.

**Mr Mahoney:** Jim Thomas, the former deputy, who was fortunate enough to be moved out of Labour when

this was introduced and is now in another ministry, did make the presentation to the committee the other day, on the opening day, and on page 7 he said: "The purpose clause should answer the question, 'Why do we have this legislation?'" That's the question the bureaucrats want to answer when they draft a purpose clause. "So in the case of the Workers' Compensation Act," he goes on to say, "the overriding purposes of the legislation are to provide fair compensation, health care benefits, rehabilitation services and facilitate return to work."

I couldn't agree more with your comments that if this was in the private sector, this would be Confederation Life. They would pull the plug on this system.

Why do we have this legislation? Why are we reforming workers' comp? It would seem to me the answer to that is, to save it for the benefit of injured workers to live up to the historic compromise of Justice Meredith in 1914 where the workers gave up the right to sue and the companies bought and paid for insurance to provide coverage for the workers. It seems to me the answer to the question of why do we have this legislation should be, because we want to save what is fundamentally a good, sound system that's in serious trouble.

**Mr Jones:** I do agree with your comments. When we go to the issue of the purpose clause, I think it's evident that over the last six years a purpose clause has become more common in new legislation, and certainly legislation in this day and age has more to do with cooperation between the workers and the employer and them developing programs that are established through guidelines and the purpose clause has become very valuable.

If we were writing a purpose clause in 1914 for WCB, I think that purpose clause that you read would be an adequate purpose clause, because really what we're talking about is insurance. But over the years, and particularly now more than ever, we've learned that it doesn't work financially. If we don't address the issue of financial responsibility in the purpose clause, there's nothing to say that they have a purpose to continue to exist. Maybe that's implicit, but experience has shown that it's not implicit, that we must put into that purpose clause that they have a purpose to exist, and in order to do that and to continue to exist, they must be financially responsible. It has to go to the board of directors, and it must be told in that purpose clause it must be financially responsible for the continuity of the WCB.

1750

**Mrs Witmer:** Thank you very much for your presentation. Yesterday, the minister and deputy minister spoke to the fact that they were making some changes to the amendment that relates to the experience rating program. Have you had a chance to see the changed amendment?

**Mr Jones:** No, unfortunately. Maybe my cohort has.

**Mr David Stark:** Yes, I've taken a look at it, and as far as I can tell, it doesn't change the fact that the board of directors can still conduct a subjective investigation. In so doing, that undermines NEER, because employers who use NEER as an effective management tool will not be able to rely on the predictability that that program brings to bear. It remains to be seen whether even with this



amendment we can support a subjective investigation. My sense is that we can't. The NEER has proven to be workable. Don't do anything to undermine it.

**Mr Jones:** One of the issues that seems to be common amongst our membership is that one of the reasons why the NEER program—this is a somewhat cynical view—is not being accepted in its present form is because it reduces revenues. But the reason it reduces revenues is because we have improved safety conditions for our workers and we have a reduced incidence of injury. We cannot support anything that may have an adverse effect on the safety of our workers.

**Mrs Witmer:** It's been one of the few programs business and the government have worked on that has proven really effective in decreasing the number of accidents in the workplace.

**Ms Murdock:** You're aware that there's an amendment put forward on NEER and that the wording in the amendment is taken directly from the PLMAC business section on NEER?

**Mr Jones:** I would have to review that. I couldn't comment without having the appropriate information.

**Ms Murdock:** It is. I'm on the record, so I can—

**Mr Mahoney:** Trust her. She's with the government. She's here to help you.

**Ms Murdock:** I'm on the record, so you'll know that it's true. But I wanted to—

**Mr Jones:** I would like to say first, though, that we do not necessarily support everything that was recommended by the PLMAC, but we are working in cooperation with the Employers' Council on Workers' Compensation and whatever it, in cooperation with us, agrees to, that would be the position that we would take, not necessarily because it is consistent with the PLMAC.

**Ms Murdock:** Okay. I just wanted to follow up on Mr Mahoney's comments.

**Mr Mahoney:** Are you quoting me again?

**Ms Murdock:** Equality and equity here, Mr Chair.

**The Vice-Chair:** Yes, I'm watching the clock.

**Ms Murdock:** Mr Thomas, the former deputy, also said, just to follow through on Mr Mahoney, that:

"The purpose clause is not the place in the legislation where directives are given regarding how the services are to be provided. It is most appropriate that the directives on how to achieve the goals be placed in the substantive sections of the act. The amendments proposed in section 12 of the bill explicitly establish new obligations on the board of directors to act in a financially responsible and accountable manner."

I put to you that today, 1994, 80 years after the institution of the Workers' Compensation Act, I disagree with you substantially, just so you know, on the whole issue that the purpose clause that is presently in the amendment would apply more to 1914 than it applies to 1994 and say exactly the reverse, that it is the responsibility of people to be financially accountable, not the responsibility of a piece of legislation. What do you have to say to that?

**Mr Jones:** Well, I have to say that the situation with

respect to the unfunded liability and the future of the WCB system is so grim that it is absolutely important, a number one priority, because we want the program in place, we want to ensure that all the things that are in the purpose clause continue, but we know that cannot happen without financial responsibility. And given the state it is in today, that financial responsibility must go to the top of the list of priorities so that we can ensure there is workers' compensation in the future. If we find that because it goes to the top of the list of priorities in the purpose clause in 20 years from now it doesn't exist, then your argument might be that it is no longer necessary to have in the purpose clause.

**The Vice-Chair:** Mr Jones, Mr Stark, Mr Braden, thank you very much for your presentation.

**Mr Mahoney:** Let the record show that Ms Murdock said it's more important for people to be financially responsible than it is for legislation—legislation, aka government. What an incredible statement.

**Ms Murdock:** I would appreciate, Mr Chair, if the other members didn't paraphrase my comments.

**Mr Mahoney:** What an incredible statement.

**Ms Murdock:** Well, listen—

**The Vice-Chair:** Thank you very much.

LABOURERS' INTERNATIONAL UNION  
OF NORTH AMERICA, LOCAL 183

**The Vice-Chair:** Good afternoon. Please identify yourself for the record and then proceed.

**Mr Roger Quinn:** My name is Roger Quinn, social services director with the Labourers' Local 183.

**Mr Keith Cooper:** My name is Keith Cooper. I'm the legal coordinator and public relations for Local 183.

**Mr Michael O'Brien:** My name is Michael O'Brien. I'm a representative of Local 183.

**Mr Quinn:** The Labourers' International Union of North America, Local 183, has a long and involved history in this city and its surrounding areas. We provide considerable assistance and input to our members, the employers with whom we deal and various levels of government, not to mention the community itself.

At present Local 183 represents some 15,000 active and 2,000 retired members who are working or have worked in the construction trades. Our approach to many challenging situations has been one of proaction and not reaction. Representing construction workers has always been a daunting task due to a number of factors which simply aren't found in most other organized sectors. However, I will delve into those issues somewhat later in my presentation.

Local 183 has taken the interests of our members and the concerns of our contractors into careful consideration on every initiative we commence. It is why our members have access to a state-of-the-art dental clinic, a prepaid legal clinic and of course our fully modern training facility, all governed by joint labour-management boards. We recognize the need and the sensibility in administering programs via a bipartite board and we applaud the approach to WCB reform.

We at Local 183 also have attempted to smooth out

some of the bumps which many people familiar with the WCB know all too well. To that end, my role is that of director of social services, which is geared towards helping our members adjust to injury and unemployment.

Recently, in February of this year, the soft-tissue rehabilitation clinic for injured construction workers opened in our building. The clinic is designed, organized and administered by a bipartite board. Again, it was planned with the challenges of the future in mind, with the problems of the past as a constant reminder of what does not work. Ideally, this clinic will reduce the amount of time an injured worker loses and hopefully expedite the worker's return to his company at the same position he left. This situation is a winner from any vantage point: the worker's, the employer's, and certainly the WCB's. This is what our industry in general and Local 183 in particular is doing to address the needs of workers' compensation in the 1990s.

Bill 165 is a major step forward in terms of necessary reforms, but it does not specifically address certain concerns relating to the construction industry.

In general, the construction industry has many unique traits that set it apart from other industries. For the most part the work schedule in the construction industry is seasonal and transient in nature. By transient we refer to the fact that our members often work for several different employers throughout the course of any given year. They are also faced with the ever-growing dilemma of small companies entering and exiting the industry. As such, there's little or no work performed between the months of December and March each year.

Of great concern to the construction industry in general and Local 183 in particular is the fact that there were no representatives from the construction industry present at the preliminary discussions of the Premier's Labour-Management Advisory Committee.

#### 1800

It should come as no surprise to the standing committee that we are greatly concerned about the ramifications of Bill 165, given the fact that there are no specific provisions to reflect the uniqueness of the construction industry.

There are two areas that we will be addressing that are of great concern and importance to our members, and those are retraining and re-employment. We will expand on our concerns and recommendations shortly, but first we would like to briefly describe the composition of our membership to allow for a better understanding of our position on the proposed amendments.

As previously mentioned, the Labourers' International Union Local 183 is comprised of 15,000 active and 2,000 retired members, the majority of whom are first-generation immigrants. A strong majority of our membership is also not proficient in either oral or written English. Additionally, a large proportion of our membership possess minimal education, which further impedes their chances of obtaining suitable employment outside of the construction industry. Complete this scenario with a shortage of marketable skills and you may begin to understand why our members and others in the industry

are particularly shortchanged by the present and proposed system. It is fair to say that our membership, although not without exception, is comprised of a relatively unsophisticated body of individuals. This is not to say that they are apathetic or unconcerned about the issues that affect them, but we merely wish to explain how limited options are for members of our union who, through misfortune, are injured and unable to return to their usual type of work.

At this time, we wish to address the issues of reinstatement and retraining and several difficulties that the construction industry experiences in this regard. When our members are injured on the job site and if their injuries are extensive, quite often they are unable to return to their pre-accident employments. This presents a difficult task for the injured worker, the accident employer, the adjudication staff of the WCB and the worker's representative, if the worker is fortunate enough to be represented.

One of the greatest concerns we have for our membership at Local 183 is that when light duty or suitable modified work is offered to our injured workers, oftentimes the work is not sustainable. To qualify this, the recurring example would be of an injured worker returning to modified work, the adjudicator and/or case workers dealing with the worker's claim, closing the file and labelling the worker "returned to work," usually at no wage loss.

However, these injured workers are laid off shortly thereafter or at least well in advance of the remainder of the crew on site. Although there are occasions when this is understandable, there is none the less a great void in the return-to-work policy, given that there are no guarantees to the injured worker once a shortage of work and/or an employment situation, as it's so deemed, becomes the cause of the layoff.

At present, the WCB refuses to assist injured workers any further in finding suitable employment if they are laid off after the initial return to work. Therefore, we have injured workers being hired back after their injury for a few weeks or months and subsequently being laid off due to shortage of work, with no further provisions for them under the present Workers' Compensation Act.

What are our options? What can possibly be done to address these types of issues when no two situations are alike? We are the first to admit that these are difficult questions. However, we must be and are the first to take necessary steps to confront these issues which plague our injured workforce. Our strongest recommendation would be to emphasize the necessity of formulating a bipartite committee, comprised of members of the construction industry, to address the specific and unique needs of the industry. This is not an idea which merely warrants lip service or a non-committal undertaking; this is something which must be done to address an oversight which has existed for far too long in our sector. It is our understanding the Deputy Minister of Labour intends to meet with members of our industry to address these concerns. We encourage this and trust that such steps are taken sooner rather than later.

In the area of retraining and vocational rehabilitation,



we applaud the proposal under Bill 165 which attempts to expedite the mediation process with regard to vocational rehabilitation appeals. Lengthy delays in adjudication often result in missed deadlines for retraining courses, injured workers being too late to enter college or vocational programs, benefits being suspended and ultimately, the loss of potential job opportunities.

However, we do have several concerns that are common to the needs of our members. As previously indicated, the vast majority of our membership is comprised of workers with a language barrier and limited marketable skills. Usually, the vocational rehabilitation programs offer our members minimal instruction in English as a second language, questionable job-search skills training and a supervised job search which is all too often the responsibility of an overworked WCB representative.

Upon completion of these tasks, if the injured worker is not successful in obtaining employment, their vocational rehabilitation file is normally closed and their benefits terminated.

Although we have several training and upgrading courses available through our local union, it is impossible for us to accommodate all of our injured workers who are unsuccessful in finding alternate employment. Given the impediments of language and education limitations, our members are often at a great disadvantage when it comes to finding work outside the construction industry. Quite simply, we would recommend that our members, like many others in the construction industry, should receive more extensive vocational rehabilitation services to assist them in returning to gainful employment. Injured workers who are unsuccessful in returning to work must find income somewhere.

If the Workers' Compensation Board does not follow through on retraining and rehabilitation, the workers will be forced to seek other sources of government assistance. It is not fiscally responsible to allow injured workers to become a burden on other social assistance programs when it is the WCB's responsibility to work closely with injured workers.

Another concern with regard to decisions made by case workers is that often a file is closed prematurely if the case worker deems that the injured worker will not be successful in approximating his pre-accident earnings. Our members are a prime target for this form of closure.

Once again, we must emphasize the need to address these issues and not merely to allow case workers to shirk their responsibilities in the interest of expediting file closures. Unions, like Labourers' Local 183, have a proactive approach to retraining and rehabilitating their workers. So too should the WCB acknowledge our needs, which are often exceptional.

It is our understanding that on two prior occasions, task forces were formed to address these specific difficulties with the vocational rehabilitation system at the Workers' Compensation Board. Unfortunately, as with many other aspects of the WCB, construction has no specific provisions to address its unique problems. We strongly encourage the standing committee to recommend changes to the vocational rehabilitation policy where the construction industry is concerned.

If a bipartite committee comprised of members of the construction industry was formed, any concerns with regard to retraining and rehabilitation could easily be addressed when necessary. In general, it is our submission that, given the fact that the Labourers' union represents the largest construction local in North America, our opinion represents a significant proportion of the construction industry. As such, we trust that the standing committee will accept our recommendations and give them most serious consideration, given the amount of hardship endured by our injured workers when they are not successfully rehabilitated, retrained and re-employed.

It is the intention to proceed with a bipartite governance of the workers' compensation system under the provisions of Bill 165. The Labourers' Local 183 is a strong advocate of this type of representation. It is logical to have those who are most directly affected by the workers' compensation in charge of its administration. This will ensure increased accountability and genuine commitment to the interest of all.

In keeping with this spirit, we trust that this standing committee will accept our recommendation that a bipartite committee specifically comprised of members of the construction industry be formed to address the needs of this injury-plagued industry.

On behalf of the members and administration of the Labourers' Local 183, thank you for our opportunity to present here today.

**Mr Mahoney:** First of all, thank you very much. I think your suggestion of a committee specifically dealing with construction is a good one. I've met with people at the Canadian Federation of Labour in Ottawa on a couple of occasions and we've talked about how we can best deal with WCB problems in construction and the uniqueness. I think that should be recognized. So I would support that and would be quite prepared to put an amendment to recommend that such a structure be established.

I have to ask you, though, a couple of questions. The first is, on page 2, you refer to, "We recognize the need and the sensibility of administering programs via a bipartite board and we applaud this approach to WCB reform." My question would be, how is what's proposed in Bill 165 different than the status quo?

**1810**

My second question would refer to your comments in a couple of—page 8 is another one where you refer to, "It is not fiscally responsible to allow injured workers to become a burden on other social assistance programs...." Your role in the social services department of your local and other comments with regard to this, my second question would be, in your mind, is the Workers' Compensation Board a social service such as others, such as family benefits or unemployment insurance or whatever you might categorize into that, or is it an insurance program to replace income and return people to work? There's a very distinct difference.

So I'd ask you to comment on the two questions: How is this supposed bipartite reform different than the status



quo that we have today, and is this social service or insurance?

**Mr Quinn:** I'll have to ask you for some clarification. When you refer to the bipartite as being similar to the status quo, bipartite in our recommendation, meaning the bipartite committee?

**Mr Mahoney:** On page 2—maybe I've interpreted this wrong, and if I have, I apologize—you're saying, "We recognized the need and the sensibility in administering programs via a bipartite board and we applaud this approach to WCB reform." The implication I'm taking from that is that Bill 165 somehow reforms the governance structure of the board to make it bipartite. It's bipartite now.

**Mr Quinn:** Certainly, now I understand what you're referring to. What I mean by that is it was sort of a prelude to what we were to discuss later. In reference to the bipartite governance now of the Workers' Compensation Board, the new proposal for that, later when we alluded to the fact that we would highly recommend a bipartite board to deal specifically with construction issues, we were referring merely to the fact that we are strong advocates of this type of governance. In other words, as you'll also notice in our submissions today, we have a rehabilitation clinic which is run in conjunction with management and of course advocated by the Workers' Compensation Board and in fact partially funded. So it was that aspect of governance, a bipartite board in general.

**Mr Mahoney:** So you agree Bill 165 does not fundamentally change the structure of the governance. It adds two people, one recommended by labour and one by management. It's still bipartite.

**Mr Quinn:** Exactly, and in our opinion that's a system we sanction.

**Mr Mahoney:** The second question, social services or insurance?

**Mr Quinn:** That's a more difficult question, and the reason I say that is because you could look at it as insurance for workers who are temporarily injured. The fact of the matter is, some workers are fortunate enough to return to work, and in our industry in particular, if I may refer to it since it is our presentation, those who are fortunate enough to return to their pre-accident jobs are what we would deem to be the minority, in many cases. Those who are permanently injured or injured to the point where they are not able to perform their pre-accident earnings are somewhat reliant upon this system. So in that regard there I suppose it is a social burden.

However, the intention of what we were discussing today, if I understand you correctly, was what's the difference between one form of social assistance or another. It's our opinion that through the help of the Workers' Compensation Board and extensive vocational rehabilitation training, which of course we feel is definitely necessary for the people in our industry for the reasons that I've stated quite clearly, for the composition of our membership, it's necessary to have these people receive perhaps extensive vocational rehabilitation services, hopefully to arrive at an end. In other words, if

they can't return to work in the construction industry, hopefully through their retraining they will be able to return to some form of gainful employment, whether it be elsewhere in the construction industry or outside the construction industry, ultimately off social assistance for good.

**Ms Witmer:** Since I have two minutes I'll focus just on the one question. You mentioned, and certainly you stressed the fact, that the people who are injured working in the construction industry are indeed unique and there are some special problems, and that you ask for the bipartite committee to be set up that would comprise members of the construction industry. Who specifically would you see sitting on that type of bipartite construction committee? Who would be the key players who would need to be involved?

**Mr Quinn:** It sounds quite biased in saying it, but I would hope that the Labourers' Local 183 would be one of the members on it. In saying that, it's quite simply because we are the largest construction local in North America.

Looking at both sides of it, from a labour aspect, we would like people from various facets of the construction industry. There are several similar boards set up, as we've mentioned earlier and as you may be aware of. We would see people from the various trades, from the labourers, operators, carpenters, various trades; in other words, to get a good spectrum of people and a good cross-section of the construction industry, and of course on the management side, quite similarly, management from different facets of construction, so that in essence we have a broad spectrum of people to draw from. Our presentation today—I'm sure that several other construction-oriented businesses in the industry have the same problems. Ours is quite amplified. The fact is that the Labourers' union is comprised of a very, very high amount of immigrant population and limited-skilled people. But I think in general we should get a good cross-section, because as I've focused here today, there are some very specific needs that are not addressed, and you can't pigeonhole them.

**Ms Murdock:** Thank you for coming. I am only too aware after the Ontario Labour Relations Act how different the construction industry is, and how you've been dealt with very separately. But I want to just get this straight: the board of directors at the Workers' Compensation Board, bipartite, not a separate board of directors for the construction industry?

**Mr Quinn:** In fact, yes, I would have to answer your question. It would be—

**Ms Murdock:** You're suggesting two boards of directors at the Workers' Compensation Board.

**Mr Quinn:** But you see, in taking it in our context, there are two separate roles. One is the governance of the entire system and one would be, if you will, perhaps a subcommittee.

**Ms Murdock:** Okay. Like an advisory committee.

**Mr Quinn:** Exactly.

**Ms Murdock:** Actually, I don't disagree, because you are so different.

One other area that I caught, you're not suggesting that a construction worker who is injured and returns to work and two months after, because of the transient nature of construction, employerwise and jobwise, is laid off, that that employee who has been returned to work, given the purpose of the Workers' Compensation Act, should then come under the Workers' Compensation Board for vocational rehabilitation, are you?

**Mr Quinn:** Okay, you've touched on a very excellent point there. It's a very grey area. As I've mentioned, you might recall, I've said there are some very understandable circumstances in that we have examples—I'll get into a brief example with you then. There are some people whom we do return to work and shortly thereafter are laid off due to shortage of work.

**Ms Murdock:** Right, not due to the injury.

**Mr Quinn:** That's where it's unclear. I will qualify that further. Usually when a construction crew is laid off, they're laid off together or sometimes a few at a time, but when a worker is returned to work, let's say perhaps in September—and these are valid examples because it is this time of year now—oftentimes they're laid off three, four, five weeks later and the rest of the crew works until Christmas, until the usual shutdown period. So it is very obvious that sometimes employers are not that willing to take back injured workers for any sustainable amount of time.

There's no doubt in our minds, we'll be the first to admit it, that it is difficult to accommodate injured construction workers, depending on the extent of their disabilities. How much light duty is there every day on a construction site? There is a certain amount, but is there 10 hours a day and is there enough to carry him through an entire season?

**Ms Murdock:** Right. And an advisory committee would answer it.

**Mr Quinn:** In other words, I'm agreeing with you. But to mention to you, I was not in any way saying that if at the end of the season the worker's laid off he should be receiving assistance from the board while all his colleagues are forced to remain off work for the winter.

**Ms Murdock:** Just on Mr Mahoney's point, because he has asked a number of presenters about—I wish he was here—the governance of the board and the bipartism: I disagree with Mr Mahoney because I do believe that Bill 165 does fundamentally change the governance of the board, because it's only through practice that it is bipartite at present.

If you look at the existing legislation, it does not call for a bipartite board, and the changes in Bill 165—and hopefully the members will read Hansard on this—the board will appoint the chair, the board will hire a CEO. There will be public members on the board, and that should change, hopefully, and we expect it will, based on experiences in other jurisdictions, how the board is operated and the policy discussions that they have.

**The Vice-Chair:** Thank you, Ms Murdock.

**Ms Murdock:** With administration being done by someone else.

**Mr Quinn:** May I briefly respond to that?

**The Vice-Chair:** Sure.

**Mr Quinn:** You'll notice that in his rather verbose question, I didn't respond to that part of it because I didn't feel it applied to what we were presenting nor did I find it to be true.

**The Vice-Chair:** Mr Quinn, Mr Cooper and Mr O'Brien, thank you for taking the time out to give us your presentation today.

This committee stands adjourned till 10 am tomorrow.

*The committee adjourned at 1820.*

## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

**Chair / Président:** Vacant

**\*Acting Chair / Président suppléant:** Waters, Daniel (Muskoka-Georgian Bay ND)  
Conway, Sean G. (Renfrew North/-Nord L)

**\*Fawcett, Joan M.** (Northumberland L)

**\*Ferguson, Will,** (Kitchener NDP)

Huget, Bob (Sarnia ND)

Jordan, Leo (Lanark-Renfrew PC)

**\*Klopp, Paul** (Huron ND)

**\*Murdock, Sharon** (Sudbury ND)

**\*Offer, Steven** (Mississauga North/-Nord L)

**\*Turnbull, David** (York Mills PC)

Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Akande, Zanana L. (St Andrew-St Patrick ND) for Mr Huget

Hope, Randy R. (Chatham-Kent ND) for Mr Wood

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Conway

White, Drummond (Durham Centre ND) for Mr Huget

Wiseman, Jim (Durham West/-Ouest ND) for Mr Klopp

Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

### **Also taking part / Autres participants et participantes:**

Mitchell Toker, manager, workers' compensation, Ministry of Labour

**Clerk / Greffière:** Manikel, Tannis

### **Staff / Personnel:**

Richmond, Jerry, research officer, Legislative Research Service

Fenson, Avrum, research officer, Legislative Research Service



# CONTENTS

Tuesday 23 August 1994

<b>Workers' Compensation and Occupational Health and Safety Amendment Act, 1994, Bill 165, <i>Mr Mackenzie / Loi de 1994 modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail</i>, projet de loi 165, <i>M. Mackenzie</i></b>	R-851
Premier's Labour-Management Advisory Committee, business steering committee	R-851
David Hambley, chair	
Doug Gilbert, consultant	
Ted Nixon, consultant	
Steve Cryne, consultant	
Peterborough and District Labour Council	R-855
Neil McMahon, vice-president	
Board of Trade of Metropolitan Toronto	R-858
Steve Lowden, president	
Donna Cansfield, president, Ontario Public School Boards' Association	
David Brady, member, human resources committee	
Heinz-Georg Stork	R-861
Canadian Union of Public Employees, Local 134	R-863
Terry Wilfong, representative	
Bruno Macri	R-867
Ontario Public Service Employees Union	R-868
Fred Upshaw, president	
Ontario Physiotherapy Association	R-871
Signe Holstein, executive director	
Karen Webb, chair, Workers' Compensation Board committee	
Ana Pavla	R-874
Custom Door and Lock Service	R-875
Roy Boisclair, service manager	
United Food and Commercial Workers International Union	R-878
Tom Kukovica, Canadian director	
Pearl MacKay, coordinator, health and safety education and research	
Ontario Network of Injured Workers Groups	R-881
Karl Crevar, president	
Nicanor Iglesia; Franco Lombardo	R-884
Employers' Council on Workers' Compensation	R-886
Jim Yarrow, chair	
Les Liversidge, chair, business section committee	
Andy George	R-889
Whitby Injured Workers Group	R-892
Crystal George, representative	
Federation of Temporary Help Services	R-895
Stephen Jones, president	
David Stark, staff member	
Labourers' International Union of North America, Local 183	R-898
Roger Quinn, social services director	
Keith Cooper, coordinator, legal affairs and public relations	
Michael O'Brien, representative	

C420N  
X613  
574



R-39

R-39

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 24 August 1994

# Journal des débats (Hansard)

Mercredi 24 août 1994

**Standing committee on  
resources development**

**Comité permanent du  
développement des ressources**

Workers' Compensation and  
Occupational Health and Safety  
Amendment Act, 1994

Loi de 1994 modifiant la Loi  
sur les accidents du travail  
et la Loi sur la santé  
et la sécurité au travail

Vice-Chair: Mike Cooper  
Clerk: Tannis Manikel

Vice-Président : Mike Cooper  
Greffière : Tannis Manikel



*50th anniversary*

**1944 – 1994**

*50<sup>e</sup> anniversaire*

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal des débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.





## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Wednesday 24 August 1994

Mercredi 24 août 1994

*The committee met at 1005 in room 151.*WORKERS' COMPENSATION AND  
OCCUPATIONAL HEALTH AND SAFETY  
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT LA LOI  
SUR LES ACCIDENTS DU TRAVAIL  
ET LA LOI SUR LA SANTÉ  
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 165, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 165, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

## ONTARIO HOSPITAL ASSOCIATION

**The Vice-Chair (Mr Mike Cooper):** Today we'll be continuing our public hearings on Bill 165. Our first presenters are from the Ontario Hospital Association, public affairs division. Good morning. Welcome to the committee. The committee would appreciate it if you could keep your remarks somewhat shorter than the 20 minutes allocated to you so there will be time for questions and comments.

**Mr Peter Harris:** Thank you, Mr Chairman. I am Peter Harris, chair of the Ontario Hospital Association, and with me today is Dennis Timbrell, president of the association, and Russ Gurman of Hamilton Civic Hospital, who is also chair of OHA's workers' compensation committee.

We have provided to the committee copies of our brief. In it, we comment on most of the major issues raised by Bill 165's proposed amendments.

In general, while we appreciate that the bill is only one component of the government's strategy to reform the Workers' Compensation Board, we are in general disappointed with the bill's provisions on two counts.

First, it is not, to us, a real blueprint for fundamental reform. It does not, for instance, tackle one of the largest cost-drivers presently in the system, future economic loss and non-economic loss awards.

Second, it does not truly reflect the March 1994 framework document presented by the Premier's Labour-Management Advisory Committee.

Like other employers, we are deeply concerned about and must strongly criticize the bill's provisions concerning the purpose clause, vocational rehabilitation, policy directions and experience rating.

We are also very concerned that the top-up provisions and the de-indexation protections for certain categories of benefit recipients will add costs to an already financially

unsustainable system. If Bill 165 is enacted, the unfunded liability would continue to grow.

As you will see, the core of our presentation today centres around the provisions in the bill to establish a bipartite model of governance for the WCB. Let me be clear from the outset that we are not opposed in principle to bipartism. In fact, we as a sector, and OHA specifically as an organization, participate in several existing successful models of bipartism, such as the board of the hospitals of Ontario pension plan and the Health Sector Training and Adjustment Panel.

However, there is one model of bipartism, the Workplace Health and Safety Agency, which in our experience is not working well, and unfortunately some of its worst aspects could, we believe, be imported into the WCB if Bill 165 provisions are enacted.

Our involvement with the agency's bipartite governance structure over the past three years is, as we state in our brief, a cautionary tale. We believe, however, that it has given us a unique perspective on bipartite labour-management governance, which we felt compelled to share with you.

The organization is an agency of the WCB, fully funded by the employer WCB assessments. It has been embroiled in controversy, scandal and confrontation almost from day one, and its first neutral chair and executive director resigned after only brief stays in their respective posts. The neutral chair was not replaced by an order in council for nearly two and a half years. In the interim, the vice-chairs filled the power vacuum and became co-CEOs and co-spokespersons. They no longer are simply leaders of their respective caucuses, but in effect have become the chief officers and apologists for the agency. They have also consolidated their power by taking extensive control of the staffing of the agency, including the executive director position.

The workings, actions and governance of the Workplace Health and Safety Agency should be of major concern to the Legislature, as the government is asking the Legislature to enshrine in statute another bipartite labour-management board.

There are two very serious deficiencies in the way the agency operates which we would bring to your attention at this time: First, it has no dispute resolution mechanism to resolve conflicts between positions of the two caucuses; and second, the agency has no formal legitimate mechanism for stakeholder input.

Our greatest specific criticism recently of the agency, however, centres around its single-minded crusade to

destroy three long-standing safety associations: the Care-Givers of Ontario Safety and Health Association, or COSHA; the Tourism and Hospitality Industry Health and Safety Education Program, THIHSEP; and the College, University and School Safety Council of Ontario, or CUSSCO.

Funding for these associations, under the provisions of Bill 208, was transferred from the WCB to the agency. The WCB currently turns over \$60 million in employer WCB payroll assessments to the agency each year. In the case of the health care sector as a whole, this amounts to about \$4 million annually, about half of which comes from the hospitals.

Responsibility for funding those safety associations was transferred from the WCB to the agency with the assumption that the funding for these health and safety delivery organizations would be continued more or less unchanged for some years until the agency had established itself as a credible entity in the health and safety field.

In April 1993, the agency board decreed that to achieve unspecified efficiencies of \$1.4 million in service delivery, COSHA and CUSSCO should be merged with the Workers' Health and Safety Centre and THIHSEP should be merged with the Industrial Accident Prevention Association. None of the bipartite boards of the three organizations affected endorsed the agency's merger decree.

A counterproposal for the merger of the three was developed and submitted to the agency in December 1993. It was ignored by the agency, and instead the agency confirmed its previous position and threatened to cut off funding to the three if they did not agree to merge or retained legal counsel to fight the agency's directives. These actions clearly exceeded the agency's statutory authority and mandate.

In March 1994, the management caucus of the agency wrote to the vice-chairs, seriously questioning the agency's actions with respect to the merger decrees and its authority to issue them. However, the die was cast and the agency continued to maintain it would cut off funding to the three on July 1, 1994, and reallocate their funding to the workers' centre and the IAPA respectively. In COSHA's case, this represents \$1.9 million.

Throughout 1993 and 1994, OHA repeatedly asked for intervention/mediation in the dispute from the Minister of Labour, the deputy minister, the OFL and finally the Premier. But no one could or would successfully intercede with the agency. A confederation of some 20 employer associations also pressed for an orderly resolution of the issues. All efforts were unsuccessful.

The agency steadfastly refuses to consider any other model for merger, thus likely forcing the immediate layoff of some 30 dedicated and experienced employees, the majority of them at COSHA.

For the health care sector, there is absolutely no indication that the workers' centre can meet the long-standing health and safety training information and educational needs of employers and workers therein.

In the circumstances, we have no choice, on behalf of

our member hospitals, except to immediately open discussions with the interim administration of the WCB and with the Ministry of Labour with a view to cancelling our members' WCB assessments for health and safety on the principle of no taxation without representation or service. Alternatively, for 1995 we will press that the \$2 million in current member assessments be set aside in order to establish some new model for meeting the health and safety needs of employers and workers in our sector.

The implication of all this for the proposals for bipartite governance contained in Bill 165 are very significant.

This is why we are recommending to you today the following:

- Replace the concept of a bipartite board of directors, proposed in Bill 165, with the conception of a multistakeholder board;

- Establish a dispute resolution and formal stakeholder consultation mechanism in the bill to assist in board decision-making;

- Clarify that the chair is to be drawn from outside the caucuses on the board of directors and that the chair is to act as chief spokesperson and representative of the board, with responsibility to mediate, if possible, between opposing positions of directors;

- The president of the WCB should be a member of the board and report to the board; and

- Stipulate in the bill that appointments to the board of directors should be made from lists of names nominated by the stakeholders.

We feel that we must focus your attention particularly on governance, because to truly reform the workers' compensation system, the WCB needs to be governed by a board that is not biased towards the position of management or labour. Change starts at the top, where the workings and actions of a stakeholder organization should be determined through a means of consensus-building based on objective and independent advice resulting from open consultations with stakeholder groups. The board structure and composition is absolutely crucial to any successful reform of the WCB. The brief and regrettable history of the Workplace Health and Safety Agency experience with bipartism should give us all pause before making another leap of faith on another bipartite labour-management structure.

In addition to these recommendations, the OHA urges the resources development committee in reporting Bill 165 to recommend that a legislative review of the Workplace Health and Safety Agency be immediately undertaken by a committee of the Legislature.

That concludes my overview comments to the committee, and as I've indicated, the brief is I believe in your hands. We will be happy to entertain any questions that we may have within the time.

**Mr Steven W. Mahoney (Mississauga West):** Thank you very much for the presentation. I must tell you Mr Timbrell and I have met on this, but I'm very interested in your recommendations. They in fact very closely mirror the recommendations I made to my leader in caucus on reform of the governance to involve a number



of different people in the stakeholder community.

Have you given any thought to who they might be? One of the problems I ran into was that I suggested a list of about 12 and of course immediately heard from 12 others who said they'd been left off. So there has to be some way of bringing all of these people together and allowing for their concerns, because it certainly was not my intention to leave anyone out, and yet you don't want a 30-person board trying to make decisions on this. So have you sort of fleshed out your idea with any specifics of how you would arrive at that?

**Mr Harris:** I think certainly the 30-person board is not viable, but we have had a number of occasions in the past with other organizations where we have been asked to submit the names of individuals who had experience who did not have a vested interest or a potential conflict and some of the other parameters, and I think we've been quite successful in being able to do that in some rather contentious situations. Dennis?

**Mr Dennis Timbrell:** Yes, I just wanted to add to that as an example, one of the good things, maybe one of the only good things, that came out of the social contract talks was the development in our sector of an alliance of employer organizations in the health sector, organizations that previously had had little to do with one another. We now meet monthly and in fact, as Mr Harris has indicated, from time to time have been asked by, for example, those charged with responsibility for the development of the Health Sector Training and Adjustment Panel to come up with management nominees who would reflect the entire health sector and we've been able to do that where previously that might not have been possible. I think that's a model we would envisage looking to build on.

Also coming out of the social contract talks are closer ties now among all public sector employer organizations. So at least in our part of the workplace I think we've got a much better handle on those communications among employer groups.

1020

**Mr Mahoney:** Could you tell us the status of your lawsuit with the health and safety agency, and maybe a little bit of history? You explained your concerns about the agency, which I share, but maybe you could tell the committee where you stand.

**Mr Timbrell:** Well, it's amplified in the full brief, but we've been in court twice, on June 30 and August 5. The case continues. We sought interim relief on June 30. At that hearing, the chair of the agency signed a submission in which the agency said, contrary to what they've been saying to us and to their own members months before, that they never believed they had the authority to force a merger of the three agencies, COSHA, CUSSCO and THIHSEP, and Mr Justice Matlow in fact ruled in our favour on that point. He did not find that he would have jurisdiction with respect to funding, and therefore effectively the funding was cut off on June 30 and we are going to lay off all the staff of COSHA.

**Mr David Turnbull (York Mills):** When you speak about a multistakeholder board, could you tell me, would

you envisage the current size of board but just simply distributed differently among stakeholders?

**Mr Harris:** I believe that would be the preferred course of action, yes.

**Mr Turnbull:** I ask that because when we were having hearings on OTAB some length of time ago, we had every conceivable group of people coming forward and saying they should have a seat on the board. You would've ended up probably with 50 people on the board, and that becomes unmanageable.

Would you envisage injured workers actually having seats on the board?

**Mr Russ Gurman:** I've looked at that, and basically we're looking at a board to ensure that the legislation is followed through the compensation system. I would look at a labour representative, a management representative and a representative from the insurance industry who knows the funding arrangements to try to control it. I think we have to be careful we do not have self-interest groups trying to direct the Workers' Compensation Board.

**Mr Will Ferguson (Kitchener):** Thank you very much for attending this morning. I think we appreciated your critical analysis of the workplace health and safety centre and the way it operates and the way it's supposed to operate. I'd like to ask you, were the agency boards of COSHA, CUSSCO and THIHSEP bipartite boards?

**Mr Timbrell:** Yes.

**Mr Ferguson:** So there are three examples where a bipartite board can function quite effectively.

**Mr Timbrell:** I point out that in respect of the workers' centre, the board is not bipartite. It is entirely OFL, as I'm sure you're aware. That is again, if you look at the complete brief, one of our concerns, that the funding has been taken away from three bipartite boards and given, in the case of the health sector, to an agency whose board is entirely of labour, with no management members whatsoever. We would maintain, and it's one of the reasons why we suggested that when you report Bill 165, you should recommend an immediate review by another committee, maybe this committee. We maintain that that is in fact an infringement, one of a number being perpetrated by the WWSA, of the legislation.

**Mr Ferguson:** As you well know, Mr Timbrell, the management people from that board decided to take a walk, and that's entirely up to them.

I have another question. Were you aware in the legislation that with the makeup of the new board, as the legislation will amend the present makeup, it would be up to the board to hire the CAO for the Workers' Compensation Board as well as it will be up to the board to appoint a chairperson?

**Mr Gurman:** Yes, we're aware of that. Again, it has to be a neutral position that can mediate the discussions between the labour and the management representatives for the other stakeholders on the board.

**The Vice-Chair:** Mr Harris, Mr Timbrell and Mr Gurman, thank you for taking the time out of your busy schedules and giving us your presentation this morning.



## OXFORD REGIONAL LABOUR COUNCIL

**The Vice-Chair:** I call the Oxford Regional Labour Council. Good morning. Please identify yourselves for Hansard and then proceed.

**Mr Terry Coleman:** The Oxford Regional Labour Council has been serving its affiliates and communities since 1955. At present, we have 27 affiliated unions which administer over 50 collective agreements and represent 9,000 workers and their families. These workers, and the businesses that they work in, represent an average picture of Ontario's manufacturing and service industries. We're employed at everything from mining of lime and gypsum, to auto parts and assembly, transportation, textiles, retail, municipal workers, health care deliverers and workers in the agricultural products sector.

It's important to have a look at the early history of workmen's compensation, now called workers' compensation, in the province of Ontario. After years of unexpected litigation expense to employers, and the same number of years of uncertain results to injured workers, the province of Quebec set a commission in motion to study labour accidents in 1907. The Quebec wing of the Canadian Manufacturers' Association believed so much in the validity of workmen's compensation that a speaker at the 1908 CMA convention said, and I quote from Industrial Canada dated October 1908: "The whole tendency in our effort is to reduce the cost and get manufacturers out of the hole that they have been in here in this province"—meaning Quebec—"...the law courts are full of records of most unjust claims that have been paid through the intervention of juries. We want to get right down in black and white and know where we are." Of all the advantages which would accrue to the employer, the most important was a reduction in costs. It was this argument that carried weight with the business community.

The Meredith commission in Ontario began hearings on compensation in October 1911. In the final report released in 1913, employers condemned the accompanying draft legislation as being too exorbitant. In a nutshell, this is the problem we're faced with here: 80 years later we are still searching for the balance of cost and fairness to working people who are maimed or killed in this province every year, which last year were 373,000.

Workmen's compensation benefited both the employer and the employee, but the benefits were unequally divided. For business, compensation reduced costs and helped rationalize the new industrial order. For the worker, compensation offered only a modicum of security against the dangers of industrial occupations. A severed limb could not be replaced and the reduced earning capacity of a maimed worker could not be wholly supplemented by pensions. Despite a myriad of amendments to the original Workmen's Compensation Act of 1914, the question of accident prevention has not been satisfactorily addressed.

The government of Ontario has introduced important changes to the workers' compensation system. Unfortunately, after the last 15 years of successive government intervention, the compensation act has shown less and less benefits to the injured worker. This latest government

announcement has gone far in addressing the most pressing issues in this inequity. However, there are areas of grave concern to the Oxford Regional Labour Council and workers everywhere in the province of Ontario. We will highlight our most pressing concerns here but, for lack of time, we've included an appendix.

We most strenuously object to the Friedland formula for inflation protection. We believe any loss in income to an injured worker who is already on a reduced income is a grave injustice. As an example, we've prepared a hypothetical chart showing the difference between the current full inflation coverage and the proposed Friedland formula.

**1030**

We just threw this together as an example to show what would happen to a \$300 monthly pension over the next three years, considering a 5% CPI in 1995, 8% in 1996 and 1% in 1997. As you can see by the figures that come out, there's quite a bit of difference. When you take the accrued increase, that's a lot of difference. The last line tells quite a big story: You've got an increase in inflation but a decrease in pension. That's totally unacceptable.

The injured worker in this example lost 7.9% of the actual accrued cost of living. Although this may be acceptable in the event of a retired worker with a shorter life expectancy, the effect on a younger worker would result in a meaningless compensation pension in a short period of time. We must not trivialize injuries in this manner and push injured workers, through no fault of their own, to the margins of society.

The next shortcoming in Bill 165 that we would like to bring to your attention is the problem of re-employment. We agree in principle with the notion that the employer should re-employ the injured worker. Hard experience has taught us some valuable lessons in this area. The vocational rehab plan, gradual return to work, runs hand in hand with re-employment. The question is, is the board sending injured workers back to work too early and risking further injury in another body part?

**Mr Kelly Hoskin:** A case I have been working on involves a worker who had shoulder surgery. The specialist said it would take one year to determine the success or failure of the surgery. However, the board determined after only six months that the injured worker could go back to work on a voc rehab (with restrictions) essentially using one arm to do the work that would normally be done with both. It is the opinion of the injured worker's specialist that the worker's good arm would be subject to repetitive strain. I feel the board should concur with the injured worker's specialist. The board's regional medical advisors do not see the patient. They are not familiar with the injured worker's job. They only see their medical file and make the decision only according to that medical file.

We feel this is exactly the wrong type of message to send to injured workers. The board's medical advisors need to be accountable to the realities of the injury and the workplace. One of the key points of Bill 165 is to return injured workers to their jobs quickly and safely—"safely" cannot be emphasized enough.

Another serious concern we have with Bill 165 is the question of privacy concerning prescribed medical information. Employers have no need to have access to an injured worker's medical file. In the best scenario, the employer only needs to know when the employee is able to return to work and with what restrictions.

The amendment to section 51 is fraught with pitfalls that could open the door to abuse of an injured worker by the employer and sets a dangerous precedent to society as whole. Any small amount of good it could do in an injured worker's return to the job would be offset a hundredfold by the seeds of animosity and distrust that could develop from this dubious practice. It makes the employer the judge and jury in a return-to-work situation. How will lack of employee consent affect a decision by the board? It could destroy the doctor-patient relationship. In short, it creates a stressful situation for everyone involved, and the job of enacting legislation should be to reduce stress and promote trust in these delicate situations.

**Mr Coleman:** The most pressing problem for disabled workers is that of poverty. Bill 165 moves in the right direction on this issue. We at the Oxford Regional Labour Council support the initiative of early return to work, and again I must emphasize a safe return to work. We strongly support the provision giving a \$200 monthly increase and 100% CPI indexing to the lifetime pensions of disabled workers who were injured prior to Bill 162. It should be expanded to include all injured workers regardless of section 147(4). It goes a distance in assuring a better quality of life for those individuals.

Although we at the council have serious concerns about the experience rating system, it perhaps has been recognized that prevention is a crucial spoke in the wheel of reducing costs of the Workers' Compensation Board. We applaud the government on this recognition, if not in the manner of initiation.

The Oxford Regional Labour Council supports the amendments providing a bipartite board of directors. This is a sensible solution to the matter of governance and leadership. Employers and labour are the stakeholders and will have an equal say in the decisions which will reflect workplace needs and reality.

The council feels that the prediction of an increased funding ratio of the current 37% to 55% in 2014 is financially sound. Regardless of what some lobbyists may say, these types of numbers are very sensible, but it should not come at the expense of injured workers. Bill 165, in the main, is a sound document for the immediate future.

Ontario's workplaces have undergone massive restructuring in the last decade, and so has the economy. Change has come upon us very quickly, and now the Workers' Compensation Act has new and fundamental challenges before it. Therefore we, in the strongest terms, support the announced royal commission to study this issue. We are appreciative of the breadth of the mandate. We are confident that this commission report will establish a new Workers' Compensation Act that will include all workers of Ontario.

The Legislature should pass Bill 165 into law, taking

into account our serious concerns and with amendments that clear up the intent of some clauses.

I think it's important, before I stop here, to go over just a couple of things on the appendix that highlight our concerns.

On the first page, titled "Sections 51, 63," the new subsections 51(2) and (3) obligate a physician to provide prescribed information about a worker's physical abilities, with the worker's consent, and will be based on an amendment to subsection 63(2) to create a regulation which sets out the prescribed medical information. This form should be negotiated by representatives of the business, labour and medical communities and be provided to government for the regulation process. It must not contain any diagnostic information.

The intent of the prescribed information is to facilitate early return-to-work programs. The present wording of subsection 51(2) discourages the cooperative environment which is necessary for successful return-to-work programs. Before a doctor should be mandated to provide information, the doctor should feel comfortable that the information provided will be used to help in the patient's recovery and that the patient's impairment will be accommodated safely through a workplace program developed and approved by the WCB.

Although subsection 51(2) requires the consent of the worker, will a worker be deemed uncooperative by the WCB if she/he refuses to consent? In a unionized workplace, a worker may feel confident enough to refuse the information when a joint return-to-work program does not exist. In a non-union workplace, the worker who denies consent will ultimately suffer grave consequences.

#### 1040

Should an employer which has not implemented a WCB-approved return-to-work program have access to a worker's medical information if it has rejected the concept of uncooperative return-to-work programs and refused to implement a board-approved program? Would that employer know what to do with the information? The potential for abuse is frightening.

Subsection 51(2) should be amended to read, "A physician who receives a request from the worker or from the employer via the worker shall provide each of them and the board with such medical information as may be prescribed, where the employer has implemented a board-approved return-to-work program."

Clause 63(2)(h.1) should be amended to read, "prescribing non-diagnostic medical information for the purposes of subsection 51(2) about the ability of a worker to return to work and about any medical restrictions affecting the worker's ability to perform work on his or her return."

On page 4 under the heading "Section 147": There's a small group of workers, all of whom are over 70 years of age, who were not considered when Bill 165 was drafted. These are workers on very small WCB pensions who turned 65 years of age prior to July 26, 1989, and were never able to return to work after their injury. Their CPP contributions were minimal. They were made ineligible for the 147(4) supplement due to their age, yet suffered



similar circumstances as those younger than them. Increasing the pensions by \$200 monthly for this group would not cost the WCB much money and is an issue of equity and justice.

Clause 147(14)(b) should be amended to read, "if the worker would be entitled to a supplement under subsection (4) but for subsection (7)."

I'd like to thank the committee for the opportunity and look I forward to your questions.

**Mr Mahoney:** Thank you for your presentation, but I must tell you I find so many contradictions in what I've just heard that I'm somewhat puzzled. Maybe you can help me.

There are four fundamental cornerstones to this bill: Friedland, return to work, the medical amendments and the \$200 increase in the supplement and the pension. There are four fundamental legs on this table. You strongly oppose three of those and support one, and yet you say the Legislature should pass this bill into law.

I am just totally astounded at the contradiction there. The other people we hear from who come forward and say they are opposed to those issues—and we hear them from labour and management opposed to those issues—come to a little bit of a different conclusion. They suggest we should withdraw the bill. How can you voice such strong and very clear opposition to three of the four major points in Bill 165 and still support this bill?

**Mr Coleman:** I don't find that as much of a problem as you do. I represent a labour council and we're very well aware of what took place to bring this draft legislation forward. We're here to represent the injured workers in our unions. We deal with this on a daily basis. I'm just putting forward the fact that some of this stuff just isn't fair. It's in the legislation, but I also believe that this legislation is a temporary fix until there's a report from the royal commission.

**Mrs Elizabeth Witmer (Waterloo North):** You've mentioned here a few times your concerns for the injured workers, and we certainly had a number of them in yesterday who, it appears, had not been treated as fairly as they should have been.

You refer to section 147 and those who are over 70 years of age who were not considered in the draft of this bill and you indicate that if their pensions were to be increased by \$200 per month, it would not cost the WCB much money. Do you have any idea as to the exact amount of money it would cost?

**Mr Coleman:** I'm sorry, I don't.

**Mrs Witmer:** I guess that's the problem we have because every time you add, you need to take something away. You've indicated that you don't have any concern about the amount of the unfunded liability and the fact that it's not going to be reduced in the future. It's not going to be eliminated because it's not even going to be reduced. Why do you think those figures are financially sound? My concern is if we continue to increase the unfunded liability, the time could well come when we won't have any money to pay injured workers. There will be no money in the pot. Does that not alarm you?

**Mr Coleman:** If you'll just allow me a second here.

I remember it very well; it's just finding it.

**Mrs Witmer:** By the way, I have a lot of sympathy for those older workers. I think some of them have been unfairly treated.

**Mr Coleman:** On the bottom of page 6, the prediction is that the funding ratio will be increased over the next 20 years from 37% to 55%.

**Mrs Witmer:** However, the unfunded liability which stands today at \$11.7 billion will increase to at least \$13 billion, probably \$15 billion and more.

**Mr Coleman:** In what year's dollars?

**Mrs Witmer:** We're talking about right now, constant dollars. There's no reduction whatsoever in the unfunded liability and many people predict that the system could go broke eventually.

**Mr Coleman:** You don't believe the projection, is that what you're saying? The prediction is—

**Mrs Witmer:** I do believe the prediction, but you don't seem to be unduly or duly concerned about the amount of the unfunded liability. My concern is that if we're not careful and if we don't balance the two factors of looking after the needs of injured workers and making sure that the rate hike to the employer is fair, eventually the unfunded liability will rise to such a point we won't be able to fund the system. It'll go bankrupt.

**Mr Hoskin:** We're mainly concerned with the injured workers and what they receive as a result of their injuries through the workplace. We represent injured workers on a daily basis and we see the injured workers daily, which many of you people would not see.

**Mrs Witmer:** We do.

**Mr Hoskin:** An injured worker might have a bad back, but it goes far beyond just a bad back. It's the financial responsibilities, it's the psychological effects that are being put on to these people.

**Mrs Witmer:** We see it every day in our offices. We spend half our time—

**The Vice-Chair:** Thank you, Mrs Witmer.

**Mr Hoskin:** Our main concern is for the injured worker because we are representatives of the injured worker and not as much as the unfunded liability, as you guys are so concerned about.

**Mr Randy R. Hope (Chatham-Kent):** Mr Mahoney was confused. I understand where you're coming at. There's a progressive improvement from the current situation, and we've just heard the opposition say, "Well, we care about injured workers too, but we want the bill withdrawn." Then I read the current presentation that was made just before you which talks about reducing the index to 75%, reducing benefits to 85%, reducing the future income economic loss 15% to 40%, modifying the compensation for strain—when I sit here and I read the presentations that are being made from the employers' groups, they're saying, "Attack the injured worker," and yet we hear the sympathy calls from the opposition over there saying "Withdraw the bill" because they don't want to protect it.

**Mrs Joan M. Fawcett (Northumberland):** And put in a better one.



**Mr Hope:** I understand exactly where you're coming, and it's amazing that the opposition plays a sympathetic role and a sympathetic ear to the individuals who come forward. I understand what you're saying. I believe the royal commission will try to address future problems. The year 2014 is still a long ways away, but what we need to do is get the situation under control.

I believe that one of the issues brought forward that I agree wholeheartedly with is dealing with those who turn age 65, and we have to try to find a mechanism in the meantime, the temporary fix, until the royal commission can come up with a satisfactory way of dealing with this.

I'm sitting here and the opposition talks about being confused. When I see employers coming before us and saying, "We care about injured workers, but we want to reduce their pay even more when they get an injury in our workplace," it really confuses me.

**1050**

I wanted to get that on the record. One of the questions I wanted to ask you—because Mr Mahoney has very clearly indicated that there are employers out there who top up the WCB to make full 100% wage compensation when they get injured—in the Oxford regional area, are there any employers who top up workers' compensation to make 100% wage compensation when they get injured?

**Mr Coleman:** I'm not aware of any.

**The Vice-Chair:** Mr Coleman, Mr Hoskin, thank you for taking the time out of your schedules and giving us your presentation today.

#### CANADIAN RAILWAY LABOUR ASSOCIATION

**Mr Jim Houston:** Good morning. My name is Jim Houston and I'm vice-chairperson of the Ontario legislative committee for the Canadian Railway Labour Association representing the Brotherhood of Locomotive Engineers. With me is Mr Glenn King, who is secretary-treasurer of the Ontario legislative board of the United Transportation Union representing conductors and trainmen, and Robert Jones, who is a member of the United Transportation Union and an injured worker.

We, the Ontario legislative committee of the Canadian Railway Labour Association, on behalf of over 15,000 railway workers employed as locomotive engineers, conductors, trainmen, yard-masters, bus drivers and maintenance-of-way employees in this province, are pleased to have the opportunity to appear before your committee to express our thoughts relative to the proposed legislation.

For the most part, the membership of our organization falls under federal jurisdiction for occupational health and safety under the Canada Labour Code. However, they do come under the Ontario Workers' Compensation Act for coverage of workplace accidents and injuries.

By nature, the railway business is a dangerous occupation and the work is quite physical in nature. Injuries sustained by our members who are in the operating end of the railway, sometimes referred to as running trades employees, are usually of a very serious nature and consequently, when they occur, our people are usually off work for very prolonged periods of time. In some cases,

they never do return to work in their pre-accident employment and it is necessary that they be retrained for placement in some alternative occupation.

The United Transportation Union, Canada, and the Brotherhood of Locomotive Engineers have both established offices in Ontario which deal primarily with workers' compensation problems. Neither office has any lack of work. In fact, the case loads for both offices since their inception have increased at an accelerated rate.

Our association has participated actively in the WCB reform process that has taken place over the past several years with submissions to the various standing committees that have been established for that purpose.

We are most aware that there are problems within the workers' compensation system. Some of the problems are serious, some perceived to be serious. Our committee recognizes the fact that the government, through the introduction of Bill 165 and the creation of the royal commission, is making an attempt to resolve some of those problems.

The nature of our rail members' work is such that it dictates a high degree of remuneration and in a large number of cases, said remuneration is beyond the maximum allowable in Ontario for workers' compensation purposes, namely, \$53,900 per annum. When our members are stricken with the fact that they are not able to return to their pre-accident employment, they are left with employment that compensates them with considerably less than their previous job with the railway. Quite often they are left with a future economic loss award that inadequately covers the situation in which they find themselves and their families.

Older members of our organizations are finding themselves in considerably more serious circumstances. They have found themselves receiving meagre WCB pensions, perhaps with a supplement but quite often without. They also become painfully aware of the fact that their railway pension is invariably reduced considerably. In some cases, our members find that they are not eligible to receive such a disability pension because they do not fulfil the length of service requirements necessary under railway pension rules to receive entitlement.

In summary, they regretfully find themselves in a situation of abject poverty, and in this day and age that's an absolute travesty. Bill 162 was supposed to be revenue-neutral because it placed an obligation on the employer to re-employ workers who found themselves the victims of a work-related injury. Unfortunately, that has not been the case and indeed the direct opposite effect has been the result.

At this point in time, 78% of injured workers who have been off work for more than a year and are thereby entitled to a future economic loss award are still out of work. The workers' compensation system cannot continue to absorb this cost and, as we all know, the longer a person is out of work the more difficult it is to be motivated to return to any form of meaningful employment.

Recent economic downturns, downsizing in the railway industry due to recession, along with the WCB process of deeming injured workers into jobs that they might be

capable of working but which are not available to them—and one finds a major loss of income and an unemployment figure that is in the area of 40% for disabled persons.

Occupational health and safety in the workers' compensation system is an area of deep concern for those of us engaged in the railway industry in Canada. While we are under federal jurisdiction in this area under the Canada Labour Code, we are also employed by schedule 2 employers. This means that our employers are subject to payment of the entire cost of workers' compensation. This issue has not been addressed by Bill 165. The current system of financial incentives and penalties and experience rating encourages employers to challenge entitlement decisions, appeal claims on a regular basis, encourage our members to claim sick and accident benefits as opposed to WCB benefits, hide claims and, indeed, not to report workplace accidents.

It has been documented through the efforts of our unions that these types of unscrupulous actions occur regularly in our workplace. It has even been documented that railway line supervisors—incremental pay raises, and promotions are dependent upon them maintaining their department's accident statistics at a minimum. Had these statistics been arrived at through sound occupational health and safety practices, we could probably accept this arrangement, but unfortunately that has proven not to be the case. Experience rating does not penalize employers for claims due to occupational disease, discouraging good industrial hygiene practices. Experience-rating programs do little to reward good health and safety practices because they measure the wrong thing.

The initiatives to make the WCB an arm's-length agency from the government is applauded. There is, and has been in the past, all too much interference. Appointments to the board of directors in the past have been something less than desirable. The Workers' Compensation Board should be responsible and answerable to the people for which it was instituted in 1914, the workers and employers of the province of Ontario.

The financial affairs of the board must be considered. The WCB's financial condition today is considerably better than it was some 10 years past. It presently has assets which will cover about 37% of its liabilities as opposed to 32% in 1984. It is the feeling of our organization that if effective health and safety, re-employment, and rehabilitation programs and practices are implemented, this condition cannot help but improve in the foreseeable future.

Claims have been put forth from certain quarters that Bill 165 will result in an increase in the unfunded liability of the board from \$11.6 billion in 1994 to \$13 billion in the year 2014. These critics neglect to mention that the \$13 billion is expressed in inflated 2014 dollars and that the funding ratio is actually projected to rise from 37% to 55% in the same period of time.

1100

Bill 165 does not by any means address all of the concerns of the Canadian Railway Labour Association. However, we feel that it is a good attempt. It reflects the business-labour agreement negotiated at the Premier's

Labour-Management Advisory Committee and indicates that concessions were made by both sides in an effort to come up with an agreement satisfactory to both business and labour.

We do have some concerns with the drafted language of the bill and have attached an appendix. The areas of concern are indicated therein, primarily due to the fact that we would not be able to discuss them properly in the time frame allotted here today.

Subsection 51(2) is the section which deals with the prescribed medical information. We do not believe that an employer who has rejected the concept of cooperative return-to-work programs and has not implemented a WCB-approved program should have access to a worker's medical information. Unfortunately, the wording of the present legislation discourages the cooperative environment which is necessary for successful return-to-work programs. Before a doctor should be mandated to provide information, the doctor should feel comfortable that the information provided will be used to help the patient's recovery and that the patient's impairment will be accommodated through a workplace program developed and approved by the WCB. The information provided by the doctor must be non-diagnostic in nature.

There are other sections of the bill that give rise to questions and they are as follows:

Does subsection 8(7.1) eliminate the value of private disability insurance?

Will subsections 53(10) and 53(13) allow a non-cooperative employer to interfere in a worker's vocational rehabilitation?

Does subsection 95(6) allow the Occupational Disease Standards Panel to achieve independence as contemplated by the act?

Can clause 147(14)(b) be expanded to include those workers who are now beyond age 70 who were already 65 years of age in 1989 when Bill 162 provided for supplements under subsection 147(4) but excluded them?

Do we need the cap as called for in the Friedland formula?

Should we eliminate section 93 to give the Workers' Compensation Appeals Tribunal the independence that it needs to be truly a final level of appeal?

Bill 165 provided a \$200 monthly increase to the lifetime pensions of disabled workers who are unemployed and who were injured prior to 1990. It does not cover a small group of workers who were 65 years of age when Bill 162 was passed. We feel strongly that in the interests of justice and equity, those workers should also receive the \$200-per-month increase to their present pensions. Bill 162 denies these disabled workers the increase because of their age and we certainly sympathize with them.

The Friedland formula will not apply to the most vulnerable workers nor to their survivors, but will affect approximately 150,000 workers who have returned to work. We hope the bill will provide better return-to-work potential and better vocational rehabilitation service to mitigate the erosion of benefits that will be caused by applying the Friedland formula.



The Canadian Railway Labour Association does not endorse the Friedland formula or anything else that will reduce benefits. Experts from around the world agree that cutting benefits will not make a compensation system healthy. There are only two proven methods: prevention and re-employment. We do, however, feel that in light of the fact that the formula came about as a result of the negotiations at the Premier's labour-management conference, our organizations are willing to reluctantly subscribe to same.

The Friedland formula is more suited to pension plans where benefits are provided at or near a normal retirement age, as opposed to benefits being required to be paid to workers who become disabled at a much younger age and who will feel the effects of inflation over a longer period than one who retires later in life.

We are fearful that the cap will erode benefits. The WCB income is inflation protected because it is tied to wages. The board does not need this cap to protect the accident fund in times of high inflation. Benefits will fall behind inflation by 25% of the consumer price index, less 1%, as the board's income keeps pace with inflation. Although the cap was part of the negotiated PLMAC agreement, the cap cannot be justified and should be removed.

The CRLA supports the notion that Bill 165 addresses the poverty issue to a certain degree through increased pensions and return-to-work and rehab initiatives. We endorse the fact that provisions for increased penalties for non-compliance will assist in making the workplace safer and there will be more timely re-employment of injured workers.

Further, the workplace will become safer through the implementation of the experience rating program. These same provisions should have a profound effect on the unfunded liability through prevention of accidents and less exposure to hazardous substances.

Decisions of the board of directors will address the concerns of the stakeholder communities. The government has considered the larger concerns that have not been addressed by the bill, issues such as coverage, universal disability insurance, entitlement, occupational disease, benefit levels and indexing. These issues have been skirted for years because there have never been resources available to address them properly. We feel that the royal commission should investigate and report on the above-noted areas which have been determined to be outside the scope of Bill 165.

Too many workers with disabilities live in poverty. The Weiler report estimated that 6,000 workers die every year in Ontario from occupational disease. This figure is far too many and certainly not justified. There are 700,000 non-covered service sector workers in the province of Ontario still not covered by workers' compensation. Notwithstanding their occupation, this figure is unacceptable.

The Canadian Railway Labour Association Ontario legislative committee looks forward to being afforded the opportunity of contributing our thoughts and ideas to the royal commission. It is our sincere hope that there will be an all-party agreement to implement the report of the

royal commission upon its completion.

We most appreciate your time and patience in allowing us to address our concerns through this forum today.

**The Acting Chair (Mr Paul Klopp):** Thank you very much. One very quick question for each caucus, starting with Ms Witmer, I believe.

**Mrs Witmer:** I just wanted to bring your attention to one fact. You made a couple of points which I think were not absolutely correct. You applauded the fact that we're going to have this bipartite governance structure and that the WCB is going to be an arm's-length agency from the government. I guess what we need to remember is the fact that under Bill 165, the government is going to have that opportunity, unfortunately, to issue policy direction for one year after the passage of the bill. Now, that makes an absolute mockery of any attempt to establish a truly arm's-length relationship between the government and the WCB, so I'm wondering why you would be applauding the government because this totally undermines the cornerstone of the system that was designed by Justice Meredith in 1914. It will not be arm's length. The government will have control.

**Mr Houston:** Well, we would hope that that would be just a transitional situation for the one year, and that after the one year is up, then the true bipartite effect would take place. It's my understanding that's the reason that the one year—

**Mrs Witmer:** So you're not concerned about—

**Mr Houston:** Well, I'm concerned to a degree, but—

**Mr Glenn King:** Somebody has to oversee the transition.

**Mr Houston:** Somebody has to oversee the transition, to go from the way it is now to a totally bipartite operation.

1110

**Mr Daniel Waters (Muskoka-Georgian Bay):** You touched on one part of it—and maybe it's a bit off topic—but it's what you think the royal commission should be dealing with. I have grave concern about occupational disease. I have a gentleman in my riding right now who will die probably within the next two or three weeks after about a 10-year fight with WCB to have his occupational disease recognized. He had it recognized three months ago and will die within the next two months.

Coming out of industry, with a number of different things that we have been subjected to in the late 1950s, 1960s and 1970s, in particular, and a 30- to 40-year latency period, my concern is how are we going to afford it, because these people have to have a living and I think that you're going to see a number of us in the next 10 years end up disabled and somebody's going to have to pay the bill. What do we do?

**Mr King:** Well, Mr Waters, with the way our health care system is headed in Canada, what is the individual going to be left with? That's my concern. I think they need something here to know that if they suffer a workplace injury, whether it be occupational or whatever, they should have the means to get the medical attention they require. I think it's very unfortunate that a man is



going to pass away and he's been diagnosed; it's unfortunate. He should have been cared for a long time ago, but right now within the board there's not that drive to look at the occupational end.

We have repetitive strain injuries the very same way. They're very reflective in our trade, but yet the board fails to recognize them. We also have stress. Stress is a major player in the rail industry today. We're downsizing, we're losing our jobs, there are more demands being put on the working individual. Our only means for our members is to collect sick benefits, and that's only for a limited amount of time.

**Mr Mahoney:** That answer has actually changed the question. I wanted to talk to you about health and safety training and some of your comments, but I just have to follow up on what you've just said.

Bear in mind that the compensation system in Ontario is not funded by the taxpayer, it's not funded by the government, it's funded by the employers and they, in essence, buy insurance to protect them from lawsuits, and the workers agreed to—

**Mr King:** That's right, no-fault insurance.

**Mr Mahoney:** —give up the lawsuits; okay. So we've got a system that is funded by a specific group of people who are not the taxpayers at large. Should it be then an all-encompassing social safety net, which I think is what many people fear it has turned into, or should it be what Justice Meredith really intended, an income replacement system?

I ask that question in light of your comments, sir, about people need this protection and they need—I agree with that, but is this the right area for that protection to come from?

**Mr King:** I think it is when you're looking at the workplace, because between 1914 and today our workplaces have changed dramatically, and our people today are facing a lot of things that they never did in 1914 when the act was first established.

**Mr Mahoney:** But it's income replacement; that's the question. It's income replacement, not social services.

**Mr King:** Well, that's an issue that can be addressed at the royal commission level, I would think.

**The Acting Chair:** Okay, and I'm sure it will. Thank you very much for taking the time to come here today. Your notes and your time will be considered. Thank you.

**Mr Mahoney:** Mr Chairman, just a point of interest: I think it was either this association or a forerunner that spawned one of the first federal labour cabinet ministers, back in the early 1900s; came out of these people. I don't know if you're aware of that.

**Mr King:** No, I wasn't.

ONTARIO CHAMBER OF COMMERCE

**The Acting Chair:** And on that history note, we will move on to another organization that's been around a long time and has had many activities, the Ontario Chamber of Commerce. It's 20 minutes, and we really are a little bit behind, so try to keep your comments short so there can be opportunity for questions. Thank you. Go ahead.

**Mr Wallace Kenny:** We'll attempt to do that. My name is Wallace Kenny. I'm the chair of the employer-employee relations committee of the Ontario chamber. With me is Joe Couto, who is the chamber's policy coordinator.

We'd like to thank you for affording the Ontario chamber an opportunity to provide our comments on Bill 165. I think it's important to recognize that we have 65,000 member businesses and 205 community chambers of commerce and boards of trade across Ontario that are part of our organization.

I don't think there's anybody in this room who does not recognize that workers' compensation is in crisis in Ontario. There should be nobody in this room who is unaware of the fact that presently we're looking at a \$52-billion deficit in 2014, and I'm sure there is nobody in this room who is unaware of the fact that in the Globe and Mail this morning it was announced that the deficit has now risen to \$11.7 billion.

There should be nobody in this room who disagrees with the fact that premium payments are already out of sight. They are almost 50% higher than the Canadian average.

There is nobody in this room who ought not recognize that our current benefit levels are generous in terms of other jurisdictions. We are currently 90% of net income.

There is nobody in this room who should not recognize that benefits paid out per lost-time claim are double the Canadian average in Ontario.

Those facts create a huge drain on investment capital within this province. That is a reality. Our workers' compensation system is killing jobs. That is a reality. It is discouraging new employers from investing in our province. It is a reality that the Premier recognized when he asked PLMAC, Premier's Labour-Management Advisory Committee, to look at this issue and attempt to come up with a resolution. It's something which the NDP government, we believed, because of the initiative of the Premier, understood—the problems associated with this system. The system is technically bankrupt.

When the Premier asked PLMAC to get involved in this process, to assist in this endeavour, we, the chamber, along with others in the business community, created a reference group of over 200 companies and associations, a 16-member steering committee, 14 working groups, to address particular issues within the system. The amount of time, attention and dedication provided by this province's business community to resolving these issues is unprecedented in our history and it is something that I would submit has simply been ignored in Bill 165.

The proposals developed by the business coalition provided a balanced, fiscally responsible solution to eliminate the deficit and bring the system back to health. It did this without eroding benefit levels significantly. The solutions maintained benefit levels at or higher than other Canadian and North American jurisdictions. It is not a proposal that anyone could responsibly argue was being perpetrated on the backs of injured workers. It was fair and balanced.

It was not accepted by the government. The govern-

ment requested that business go back and seek a consensus with labour. Business did that and business reached a consensus with labour, a consensus which does not go far enough in terms of dealing with the issues but which was an important first step towards correcting the problems associated with workers' compensation in this province. That's the history of this bill. And what came out of it? Well, what came out of it is Bill 165.

1120

When business and labour reached that consensus, there was a clear expectation that the government would accept it and implement legislation which was consistent with the package. This bill does not reflect the agreement of the parties and does not resolve the issues which have brought workers' compensation to a crisis in this province. If it had reflected that consensus, you wouldn't have had every business group that has appeared in front of you say it doesn't. So for the government to suggest that somehow it has implemented this consensus or for labour to suggest that somehow it has implemented the consensus reached by business and labour is a ridiculous position to take.

So let's understand that this was not done and let's understand what impact that's had on the credibility of the process which the Premier asked business to participate in in this province. It is a serious, serious thing to have done. It hurts the credibility of the process and it hurts the credibility of the government. That is why you have heard every business group here object to the implementation of Bill 165. It's a betrayal of the business community's commitment to this process.

Now, you ask, "How is that so?" I think the best illustration of the failure of this bill to recognize the consensus that was reached is evidenced by the purpose clause. If it was the intent of the government to recognize the financial responsibility model that was accepted by the parties, why is it refusing to include the concept of financial responsibility in the purpose clause? What is the problem? We do not understand. We do not understand the sophistry that is going on with respect to this issue. The purpose clause ought to be amended to reflect the financial responsibility model. Without that change, the changes to the purpose clause will significantly impact on the cost to the system.

The purpose clause is to be amended to include for fair compensation. The only people who are responsible with respect to financial responsibility under the bill are the board of directors. It is essential that the Workers' Compensation Board in its decisions and the Workers' Compensation Appeals Tribunal also be subject to the purpose clause in interpreting the act and awarding benefits pursuant to the act. If they do not, in terms of implementing their policies etc, we are nowhere, we have done nothing to correct the problem that we're dealing with here.

Section 65 of the act is amended by adding two new subsections. These subsections require the Workers' Compensation Board to ensure that generally accepted advances in health sciences and related disciplines are reflective of benefits services, programs and policies in ways that are consistent with the purposes of the act. The

purpose of the act is to provide fair compensation; it has nothing to do with financial responsibility.

If there is no reference to financial responsibility within the context of the purpose clause, this section, as amended, would now obligate the board to implement new benefits with respect to things such as stress claims or emotional or behavioral conditions without regard to the financial consequences of expanding the scope of entitlement under the act. It's written into the bill.

It totally subverts the entire rationale for the March agreement between business and labour, and there must be a relationship established between expenses and revenues that is both fair to the worker and fair to employers.

The chamber did a survey at the beginning of this year of our community boards and our community chambers and approximately 250 businesses. We asked them to identify important issues to the business community in the province. Over 70% of these individual businesses and their community representatives identified immediate action on annual assessment increases, accountability to the taxpayer and immediate action on the unfunded liability as priorities for workers' compensation reform.

I think more telling than those numbers was the sense of outrage and frustration for a system which is simply not dealing with their concerns. We continue to receive calls from our members who are simply fed up with what seems to be a political football. What is required is some responsible action now to resolve this issue. This is not a time for us to sit around playing little political games with respect to this; the time now is for action. That's what we asked for, that's what business committed to and that's not what we have received.

So the chamber is requesting that this committee recommend that Bill 165 be withdrawn and that the proposals that were initially made by the business steering committee in November 1993 form the foundation of fundamental change to the workers' compensation system. Questions?

**Mr Mahoney:** You make reference at the beginning that the original proposals from business eliminated the unfunded liability over 20 years. There are, of course, some calls by some people to eliminate it virtually tomorrow and I frankly don't have any idea how that would be accomplished, other than devastating the system. You also say that it was without significantly reducing benefits. Can you just expand on that section of the proposal?

**Mr Kenny:** Yes. Presently the system has 90% net benefit entitlement. That's net income benefit entitlement. The proposal suggests that be reduced 5%, to 85% of net income. That still, because of the assumptions with respect to net income that are made within the system, means that people are receiving more money by not working than working in some circumstances. That is not a radical proposal and it still left benefit entitlements above those of competing jurisdictions. New Brunswick recently reduced it to 80%.

**Mr Mahoney:** Do you have any idea how much it generated in savings to reduce the unfunded liability?



**Mr Kenny:** For that particular proposal, I don't have it at the tip of my fingers, I'm sorry.

**Mr Mahoney:** There's been concern expressed that whether, frankly, it's 85% or 90% of your take-home pay, because of your taxable situation, because of perhaps being on workers' comp for six months and at work for six months or some balance of that, people would actually be paid 110% or 115% of their income. There was a proposal, as I understand it, and I believe that Mr Wilson of the OFL agreed to this, to cap that, so that whether you do it by an adjustment at the end on the last cheque or you do it in some other way, nobody would ever, under any circumstances, be paid in excess of 90% of his take-home pay. Are you aware of that proposal?

**Mr Kenny:** Yes, and we support it entirely.

**Mr Mahoney:** Would that proposal, in your analysis, generate any significant revenue to reduce the UFL?

**Mr Kenny:** It would certainly generate some, but I can't tell you, again, off the top exactly how much. But again, this comes down to the fact that where consensus was asked for and consensus was reached, why are we sitting here? Why have you been sitting here listening to every business group come in here and complain about this bill?

**Mr Ferguson:** Because business walked.

**Mr Mahoney:** By the way, it's not just business that complains about this bill. Labour is extremely unhappy with many sections of the bill, for different reasons than business, but still, we have heard from many organized labour groups asking that the bill be changed dramatically. It's probably fitting actually, because the Workers' Compensation Board satisfies no one, so why should this government try to satisfy anyone?

**Mr Kenny:** Mr Ferguson, you said business walked—

**Mr Mahoney:** Excuse me, I'm asking the questions—

**Mr Kenny:** I'm sorry.

**Mr Mahoney:** —not Ferguson. You can go to him when he gets his chance.

**Mr Kenny:** Fair enough.

1130

**Mr Mahoney:** It's my day in the sun here. What I'm wondering about here is, on an outreach tour that I conducted on workers' compensation reform I heard from many business groups who said they do not want a worker who is injured on their job site or workplace to suffer financially. I heard from many of them—legitimately injured.

There's concern about the fraud issue, and there's concern from workers about corporate fraud and medical fraud, but I don't want to deal with fraud. Let's take the assumption that the worker is injured. I believe, unlike comments that have been made by some of the government MPPs, that most companies do not want to see that person suffer. Do you agree with that?

**Mr Kenny:** Well, of course I agree with that, Mr Mahoney. There's this concept somehow that employers are big, bad guys who want to treat their employees like a bunch of serfs, and I'm sorry, I don't buy into the process. That's not what businessmen are interested in

doing and I'm tired of listening to the rhetoric that suggests that's the case.

Your friend Mr Hope—

**Mr Mahoney:** Yes, Mr Hope made the claim.

**Mr Kenny:** —earlier suggested virtually that while I was sitting here listening to the prior submission.

**Mr Mahoney:** Exactly, and we have heard it from deputations as well. That's why I asked the question.

**Mrs Witmer:** Thank you very much for your presentation. Now, you made reference to the fact that the financial responsibility obligations have been removed from the purpose clause, and of course that does create tremendous problems. The government argues that they have endeavoured to replace that section in other parts of the bill. Do you feel that what they've done will adequately cover the financial responsibility obligations?

**Mr Kenny:** No, Ms Witmer, and I think in my submissions I've identified that. As I said earlier, if in fact that is their intent, I don't understand what the reluctance is to place it in the purpose clause, as was expressed. I have heard no explanation for that. I've heard explanations for the fact that it's elsewhere, but I don't understand the reluctance to put it where the parties expected it to be.

**Mrs Witmer:** Well, the rationale put forward by the deputy minister on day one of the hearings was that the legislators had recommended that it not be in the purpose clause and the entire issue could be dealt with in the other parts. Now, I'm not sure why anybody writing legislation would be quite so reluctant to put it in the purpose clause if the government desired that it be there. I mean, why would you object to that happening?

**Mr Kenny:** I entirely agree with that comment.

**Mrs Witmer:** What about the changes that have now been made to the experience rating section? Again there, the government introduced a bit of an amendment. I would not say they're augmenting experience rating; I would say they're dramatically modifying experience rating.

**Mr Kenny:** We would agree with that. Indeed, they're complicating a system which is reasonably straightforward and that there were no objections to. It was a system within the act that was working, and now they have attempted to place upon this a process concept which we think will confuse the system more than anything else. It's unnecessary and we're surprised at—the decision was to attempt to place some amendments on it, as opposed to just lead the system. The system experience rating is working perhaps better than any other system that's ever been designed to attempt to improve health and safety in workplaces.

**Ms Sharon Murdock (Sudbury):** Before I get into my comments, just on that last point, the amendment—I don't know if you have a copy of it.

**Mr Kenny:** No.

**Ms Murdock:** The clerk can provide you with one, but the language that is in that amendment is exactly the same as that taken from the agreement of business and labour.



But I'm glad you raised the whole issue of the history of how the PLMAC works, because the October 1993 agreement that you mentioned, that you're asking this committee to take on as the business presentation—what they were asking, and I went back to my notes, was Friedland plus a reduction of the 90% net benefits to 85%, plus entitlement cuts, all on the injured worker who is already suffering from the injury itself and from getting less pay than he has gotten.

Then, in the agreement, and I've got it here: "The nature of how this special consideration to special workers, for instance, might be given was not agreed to by both parties. However, both parties did agree that the government must make a determination of how these people will be treated." We made that determination and we've got it in Bill 165.

The other area of disagreement was, "If the language of the act fails to provide the WCB with the authority to enforce employers' return-to-work obligations, then the act should be amended to give the WCB this authority." We did that in Bill 165, as a government with some leadership.

Coverage: "No agreement was reached on the issue of covering all workers by the workers' compensation system. Labour had strong feelings in favour and business had similarly strong feelings in opposition. It was agreed that this was an issue which government must address." We have addressed that issue.

Part VII, pre-1990 pensions, subsection 147(4): "It was agreed that unemployed workers with disabilities who were injured prior to 1990 and who are in receipt of a WCB pension may require some special treatment with respect to that pension. However, there was no agreement, and if there is a need, the government should address the situation," which we have done.

I'm just saying that when, in October—everybody has been relating to the March agreement. In March, when the process that you talked about broke down—and it broke down—then the deal was off. Then the government has to sit and look at what the discussions were and make a determination as to what we reasonably feel can be brought forward. We have done that.

Lastly, my comment in terms of the *Globe and Mail* article that you mentioned at the beginning of your remarks is that if it is growing at \$1 million a day, as all the business groups have told us, then our estimations, which have not been brought into dispute except that it's either \$13 billion or \$15 billion by the year 2014, if that is the case then, at that \$1-million-a-day estimate that the business community is putting forward, I would like to know how, in 20 years at \$1 million a day, it will only be \$13 billion or \$15 billion. The moneys that will be saved in Bill 165, I believe, will keep it at that level and it will grow much more slowly.

Yes, I agree that it has to at some point be reduced and minimized, and not eventually eliminated. I think Bill 165 does that. So I have no question.

**The Vice-Chair:** Mr Kenny and Mr Couto, thank you for taking the time out of your busy schedules to give us your presentation.

Mr Ferguson, do you have a question?

**Mr Ferguson:** Yes. I have two questions of research, and I think it would be very instructive for the committee to have this information.

Number one: The \$11-billion unfunded liability is obviously in 1994 dollars. The projection is that it will be \$13 billion in the year 2014. I think it would be helpful if this committee could compare apples and apples and try to get some kind of determination as to what that unfunded liability will be in 1994 dollars in the year 2014. In other words, obviously you know that \$13 billion today will be worth a lot less in the year 2014. So if we could compare that into today's dollars, I think that would be helpful for members of the committee.

My second request is this: I think it would be also very useful and instructive to the committee to have some kind of historical perspective on what happened over the past 18 months in the discussions on the PLMAC. It has been asserted here many times over that there was an agreement, when in fact the information that I have is that there was an agreement, an agreement that subsequently fell apart.

I would like to know and the other members of the committee would like to know, was there a deal or wasn't there a deal? If there isn't a deal, then I would think it would be helpful for members of the committee to be aware of that so that we are not misled in the future by individuals appearing before this committee saying: "Look, there was a deal. Why didn't you implement the deal?"

1140

**The Vice-Chair:** Mr Ferguson, I don't know if that's appropriate, about presenters misleading the committee, but I think it would be up to the ministry to provide the second request on whether there was a deal or not.

**Mr Ferguson:** Mr Chair, I'll withdraw that. What I want to know and I think what all members of the committee want to know are simply the facts about what happened.

**Mr Turnbull:** Mr Chair, I would point out that when we had the presentation from the PLMAC group the other day, they were only given 20 minutes. We asked if we could allow some extra time and the NDP, to a man, voted against that.

**Ms Murdock:** To a man?

**Mr Turnbull:** And to a woman. Sorry. I beg your pardon, to a person. There were more than you, okay.

**The Vice-Chair:** The vote was taken at the beginning of this process where we agreed to 20-minute presentations.

**Mr Turnbull:** We had an opportunity to examine the people who in fact had been working at the Premier's request.

**Mr Avrum Fenson:** Just the status of the second question—

**Mr Ferguson:** The second question stands.

**Mr Fenson:** It stands, okay.

JOE PINTO

**Mr Joe Pinto:** My name is Joe Pinto. I am a research

scientist and an independent consultant. I'm not affiliated with any employer, union group or any group, for that matter. I'm here as an independent, thanks to my member of provincial Parliament, Gord Mills, who provided my name to your committee.

Mr Chairman, ladies and gentlemen, the Rae government must be congratulated for their attempt to change the WCB act, an act that was created in 1914, of course—you know that—some 80 years ago. The government now promises compassion and justice for the injured. This bill largely addresses the policy and broad administrative and financial framework for the WCB. But without restructuring the operational side of WCB, the changes being proposed will be rather cosmetic and in the final analysis it will be business as usual at the WCB.

Let us now look at the involvement of the players in this game.

The employers: It is in their plants that injuries occur, and with four directors on the board, their task will understandably be one of self-interest.

The union: They also have four directors on the board and they will focus on the interests of their unionized workers.

But people not members of a union also get injured, so who will look after their interests? Certainly not the employers, who will be busy denying that an injury in fact occurred. The union may be sympathetic but may lack deep commitment to fight for a non-union worker. So who will champion the cause of the independent injured worker? In my opinion, no one. They will be left to the whims of the WCB staff. My recommendation is that you specifically appoint one more director on the board to represent this category of injured workers.

I mentioned earlier the operational side of the WCB. All your efforts to reorganize the WCB without restructuring the operational side will not provide compassion and justice, as promised by the NDP government.

Here are some of my recommendations for the operational side: Dismantle the in-house medical staff. Many are incompetent, inexperienced and lack the compassion needed to help an injured worker. They should accept the assessments of outside highly experienced medical specialists rather than trying to ignore them or develop their own conclusions. As a board, they should be in a position to accept medical assessments by outside specialists.

As an alternative, the board should establish, perhaps throughout the province, approved independent assessment specialists whose conclusions should be accepted.

The board desperately needs trained and qualified independent investigators to investigate scenes of accident etc., not people brainwashed by the board and/or intimidated by the employers.

The WCB staff dealing with injured workers should be trained in human relations and capable of extending humane treatment to injured workers. It is bad enough that a worker has been exposed to an injury without being further exposed to insults and degrading treatment at the hands of the WCB staff.

The ability to sue the employer must be entrenched in

the act. That is the only effective motivation that will get the employers to clean up their unsafe working environment.

Currently, the board accepts injured workers in all categories, from the hourly paid worker to an executive who has been injured on the job. However, they limit their payment to a maximum of approximately \$280 of the weekly earnings, even though the injured person may have been earning far more in weekly earnings.

By having the employer place higher-income injured people in the hands of the WCB, the government or the WCB is in fact providing the employers very cheap insurance at the cost of the injured worker.

It is recommended that the act specify the maximum limit of earnings which the WCB can accept for an injured person and that the act further indicate that persons injured and whose earnings exceed the WCB limit be covered by private insurance by the employer for the loss of income etc sustained by the injured worker.

The act should also limit the WCB coverage to injuries sustained in Canada. Any injuries sustained outside Canada should be covered by accident and disability insurance by the employer. This provision should be incorporated in the act.

A time limit should be set for the resolution of claims by the WCB. It is recommended that claims be resolved within two years and thereafter automatically referred to arbitration.

This presentation is based on my personal experience in a large industry, not only as a former manager of unionized workers I was responsible for on behalf of the employer, but also as an injured person who has suffered insults, degradation and unethical behaviour from the WCB, including some of their medical staff.

I was injured in a foreign country in 1979 and have had some 11 surgeries, but my case is still being stonewalled and I continue to suffer. Fifteen years of dealing with the WCB, along with the pain and suffering, not counting the costs involved, is a matter of the deepest concern.

In conclusion, Bill 165, in its current format, does not go far enough in providing the "compassion and justice" it is intended to. After 80 years, the act requires major surgery. The current changes proposed are of course essential to bring about the organizational and financial controls necessary, but may I suggest to you, ladies and gentlemen, that without the changes to the operational side it will be business as usual at the WCB.

This concludes my presentation. I thank you for your kind attention and wish you success in this difficult task. Now I'm open to your questions, if you have any.

**Mrs Fawcett:** You've put forward some interesting suggestions that I think have been put forward before. I'm interested just on the first page of your presentation where you really say that employers would "be busy denying that an injury in fact occurred." I know others have said that as well; they are very suspicious of employers. But the question asked by my colleague to the previous group would say that maybe that's not totally true for all employers, that they really care about injured



workers and want to see them back on the road and re-employed. Are you speaking from having spoken to a lot of people? What has been your experience?

1150

**Mr Pinto:** I have had experience exceeding 40 years in manufacturing industries worldwide. This particular item has come up in several of my discussions with different groups within Canada and particularly in Ontario. When you hear these things, you just say, "Well, maybe it's an exceptional case." But when it happened to me in my own injury, it required my taking the employer to court on another matter because I couldn't take him to court on the WCB injury. Under the sworn testimony the employer finally admitted, four years after the injury occurred, that yes, they were aware of the injury but they had not yet submitted an accident report. It was the judicial system that forced the employer to provide this information, and that's what prompted my emphasizing this point.

**Mrs Fawcett:** All right. Maybe then, rather than bringing back the ability to sue, we should clean up some of the bureaucratic problems that happen there. I worry about bringing back the right to sue as a solution because very often it's the lawyers—and pardon me to the lawyers—who win.

One other thing is your idea about medical staff and, you know, the runaround. Certainly that's what I hear in my office a lot. Our party is proposing that there be a different system and that possibly a group of doctors specifically who work on WCB would be a good idea. Could you expand just a little bit more on what you believe? How do you see what you have suggested working? Would the person go directly to one of these doctors or be referred from their own family doctor?

**Mr Pinto:** I think that following all injuries the worker goes to his family doctor. That's the first step.

**Mrs Fawcett:** Would the employers maybe suggest then to go to this special group?

**Mr Pinto:** No, I think his family doctor would then direct him to a specialist. If it is an on-the-job injury, he would be directed by his own doctor to the specialist involved.

**Mrs Fawcett:** Then that specialist's report would be accepted without other groups?

**Mr Pinto:** Yes, precisely.

**Mr Turnbull:** Could you offer some proof as to your statement that the WCB is in fact providing the employers with "very cheap insurance"? Presumably you did some research before you made this assertion. I'm under the impression that an awful lot of insurance companies would be delighted to offer WCB insurance and that in some cases, at as much as 3% of earnings, it's quite a hefty premium that is actually being paid.

**Mr Pinto:** Let's say an executive gets injured on the job. The company directs that injury to the board and yet when the final decision comes in terms of compensation, all the board is able to do is to provide him with perhaps a maximum of \$280 per week, whereas he may be earning \$1,000 a week.

**Mr Turnbull:** You've said \$280; I didn't think it was

correct. Just while you were speaking I was checking with some of the officials here. You're wrong; it could be up to \$600 a week.

**Mr Pinto:** Well, let me again—

**Mr Turnbull:** You're simply wrong. In the light of that—

**Mr Pinto:** May I beg to differ on that, because let me talk about my own case. I was certainly earning a lot more than \$280 or \$600 a week, but I got paid less than \$280.

**Mr Turnbull:** When was that injury?

**Mr Pinto:** The injury took place in 1979.

**Mr Turnbull:** Okay, there's a difference today as compared with what existed at that time.

You're suggesting that in fact workers should be able to sue their employer. Now, I don't have too much difficulty with that assertion, but you understand that WCB, when it was set up, was a quid pro quo. The workers gave up the right to sue in return for this substitute program. Presumably you would, I assume, intellectually accept the concept that if they were going to have the right to sue, then they would give up the right to WC, or do you want to have it both ways?

**Mr Pinto:** Not really. I think, though, some mechanism like arbitration is an alternative to bypass a stone-walling that goes on from the employer's side, and that would be equally acceptable. But there is no motivation for the employer right now to clean up their plants where the accidents occur.

**Mr Turnbull:** So your position is just simply that employers are bad and wrong and—

**Mr Pinto:** No, no, I don't say that at all. Some employers perhaps. A lot of them are very responsible people, but it is the exceptions that unfortunately cause quite a bit of the trouble.

**Mr Turnbull:** The fact is that you're saying you should have the right to sue. The historic bargain was made between employers and labour that they would give up the right to sue. Are you advocating much in the same way as the government wanted to make a bargain between labour and management and has now reneged on that deal too?

**Mr Pinto:** For 80 years this legislation has not quite worked out. Otherwise we wouldn't—

**Mr Turnbull:** I agree with you.

**Mr Pinto:** Giving up the suing part by the workers has also not worked out, because we tend to have injured workers' cases, claims, with the board for God knows—

**Mr Turnbull:** Let me ask you then—

**The Vice-Chair:** Thank you, Mr Turnbull. Mr Hope.

**Mr Hope:** I want to thank you, first of all, for your presentation today. I think what you've done is reflect some of the concerns that most people have dealing with the administration level and the human level. You're absolutely right: If we don't change the structure, no matter what policy directions you do, the same thing is there.

It was interesting that even though at \$600 a week



maximum you're only talking—a person making over \$31,000 still takes a decrease in their pay. It's not a matter of being an executive. I mean, an auto worker or a skilled technical engineer, for instance, making over \$50,000 a year suffers financially because they're not able to.

My question would be around more where you indicate that they maybe purchase another insurance program to cover the additional, to make up that. My concern would be around some of the concerns that you've already raised around the employer aspect, because if it's an agreement or a contract, it's in the hands of the employer who then holds jurisdiction to make decisions based on whether that individual will receive those additional dollars or not.

You raise concerns about employers not fulfilling mandates in creating safer workplaces and about appealing decisions. The chamber of commerce was mad at me because I made that comment. Well, in most of the cases I know the employer has appealed the eligibility of an individual to receive workers' compensation.

My concern would be around the insurance coverage that you indicate to be purchased by the employer, that it would leave too much jurisdiction in the employer's hands. If we're to deal with the skill added value jobs that we're talking about in the future, because we're talking about reform for the future for WCB, then we maybe should be thinking about buffing up that number to accommodate those of skill added value tech.

But I wanted your opinion about where you indicate the employer should purchase additional insurance to cover, to make up the wage aspect, if that wouldn't leave too much control in the hands of the employer.

1200

**Mr Pinto:** Actually, right now many of the employers do that for themselves, but they limit it up to a certain salary level. In one case I know its cutoff point is \$65,000, so if you're over that, you're covered by disability and accident insurance. There is a gap there which the WCB legislation does not take into consideration, and this is what I was trying to focus on.

**Mr Waters:** I want to get back to what Mr Turnbull was talking about, which was compensation. You mentioned your injury in 1975, I think it was.

**Mr Pinto:** It was 1979.

**Mr Waters:** I have a young lady aged 15 at the time of her injury, who lost her arm in a meat grinder, minimum wage as a student. Her compensation for life is based on that minimum wage at that date of the accident. As we talk about fairness and how the act should be changed, and who should be responsible and who should pay, do you think it's fair that a person who is injured, as this young lady was, at a minimum wage job before she had even reached her potential in the employment market, had an opportunity to even come close, that her compensation for life is based on that student wage job? Do you think that's fair?

**Mr Pinto:** No, it's not.

**Mr Waters:** Do you think indeed that should be included?

**Mr Pinto:** It's not fair, of course it's not fair. There's got to be some provision for the difference that you talk about, her potential. If she's not able to work at all, then she's got to get—

**Mr Waters:** Okay. Then further along, as recognized in the amendments that we're proposing, as the bill comes due for different employers their rates are set basically on a little bit more, anyway, in the line of their incident rating. In other words, those who are good employers, who have a good health and safety record, not many accidents, have an opportunity to be bonused, and the other ones are going to end up paying, have an opportunity to be surcharged because they have not complied, have not kept a safe and healthy environment and indeed have a larger number of claims. Do you not think that's the right way to move? In other words, the guilty employer pays.

**Mr Pinto:** If you can make it stick, yes, but I suspect that the employers' group on the board will have a major objection to that approach.

**The Vice-Chair:** Mr Pinto, thank you for taking the time out of your busy schedule to come in and give us your presentation this morning.

TORONTO WORKERS' HEALTH  
AND SAFETY LEGAL CLINIC

**Mr Dan Ublansky:** I'm Dan Ublansky, the director of the Toronto Workers' Health and Safety Legal Clinic. I have to apologize for Mr Turalinski. Unfortunately, he's been detained elsewhere.

The Toronto Workers' Health and Safety Legal Clinic is funded by the Ontario legal aid plan to provide legal and technical advice and representation to unorganized workers who face health and safety problems at work. Our activities are controlled by a board of directors which is elected from the community. The clinic provides unorganized workers with information about health and safety hazards of their employment, advice about their rights under the law and legal representation where required. In addition to individual advocacy, we undertake community education and outreach programs aimed particularly at unorganized immigrant workers and engage in law reform initiatives.

Historically, the clinic has not been deeply involved in WCB matters. However, unfortunately in the last year, because of cutbacks in other agencies and long waiting lists in other clinics, we felt obligated to try to pick up some of that slack. We have begun the process of undertaking some WCB cases.

The submission that we've made does not attempt to address all of the issues raised by Bill 165. There will be other submissions made by the workers' compensation network, which is a group of representatives of legal clinics. The social policy review committee within the legal aid system, I understand, will also be making a submission. Injured workers' groups will be making submissions. Generally, we've participated in the deliberations surrounding those particular presentations and we support the submissions that will be made by those groups, but I wanted to focus in our submission on the issue that we have more experience with and to try to put a health-and-safety focus on these issues, the issues that

are facing this particular committee.

In that regard, we address experience and merit rating programs both in general and as they are affected by Bill 165. I've quoted the provision in Bill 165 which has been proposed. However, clearly, although we support the need to promote accident prevention and effective rehabilitation as a long-term solution to reducing the cost of workers' compensation in Ontario, we have grave concerns about the use of the merit rating programs to achieve these objectives.

These concerns evolve from, first, a philosophical aversion to the notion that employers should be financially rewarded for meeting their minimum obligations under the law, and from a practical scepticism that providing these rewards will actually produce better working conditions or secure employment for injured workers. The amount of money which is paid back to employers in the form of rebates under merit rating programs is an obvious drain on the board's finances. Approximately \$250 million, as I understand it, has been refunded to employers under the board's NEER and CAD-7 programs, and I think the question must be asked whether there is justification for allowing this money out of the system.

I'm sure all of you are aware of what obligations exist on employers in other statutes. In the Occupational Health and Safety Act, for example, there are three sections which specify particular duties on employers with respect to health and safety. There are specific provisions such as the duty to ensure that equipment, materials and protective devices provided are maintained in good condition, and there is also a general duty to take every precaution reasonable in the circumstances for the protection of a worker.

To the extent that merit rating programs reward employers for meeting their obligations under the Occupational Health and Safety Act, they are doing more than encouraging employers to act in their own self-interest; the programs are in effect paying employers to obey the law.

I'm sure you're all familiar with obligations under section 54 of the Workers' Compensation Act. Again, given the direct relationship between the cost of an injured worker's claim and the length of time the worker remains off the job, there's an obvious incentive for employers to provide modified employment. In fact, certainly in my experience, which is almost 20 years at this point, there's no doubt that the introduction of section 54 in 1990 caused employers to focus much more attention on the issue of modified employment than had ever been the case previously, notwithstanding the earlier introduction of provisions dealing with handicap under the Human Rights Code. Those provisions under the Human Rights Code are also described below.

#### 1210

So again, perhaps this is just a personal thing or an issue for our clinic, but we do ask the question: Is merit rating the right thing to do? Our society tends to assume that individuals and corporations should obey the law willingly, and that if they are unwilling to do so, intervention is required and the imposition of sanctions is

justified. We've seen what the minimum requirements are by law, both within the WCB act itself and in other statutes, and as I say, the requirements exist quite apart from any impact they may have on employer premiums to the WCB.

Merit rating programs have been introduced by various compensation systems as a means to encourage employers to implement the same measures and procedures that are already required under the Occupational Health and Safety Act and the Human Rights Code. Some might argue there's nothing wrong with offering economic incentives to business to promote compliance with the law; however, we believe workers' compensation is different. It's not just an insurance plan for employers, as has been mentioned a number of times this morning; it's the product of a historic tradeoff wherein workers gave up the right to sue in court for damages in respect of all losses suffered as a result of their accidents, and they gave that up in return for a guarantee of protection against income losses, irrespective of fault. The object of the program is to reimburse workers for the losses that they suffer due to injury and disease, and in our submission it's not acceptable to introduce programs which either jeopardize or diminish the board's ability to achieve that objective.

Merit rating provides a benefit to employers in the form of reduced WCB costs. However, this reduction in revenue is making a significant contribution to the board's unfunded liability, which we hear so much about, and it is the size of that unfunded liability which is being used as justification for the reductions in benefits which are proposed in Bill 165 and which are advocated by the employer groups that have appeared before you. We believe that's a violation of the bargain that has been struck.

As Paul Weiler observed in his study *Reshaping Workers' Compensation* for Ontario, which is something I would recommend to everybody to reread, perhaps to put ourselves back into focus on what the issues really are here: "An injured worker does not enjoy his form of compensation as a matter of grace. He has been required to give up a common-law right of action enjoyed by everyone else. That right would now be worth a great deal. In return, he must be considered entitled to full enjoyment of the statutory right he was promised in exchange."

If you haven't heard already you're going to hear that injured workers did not agree to take a cut in benefits so the board could pay refunds to employers. Injured workers need the money which is being taken out of the system through merit rating.

We believe that the best way to promote the goal of prevention of occupational injury and disease is through vigorous enforcement and aggressive prosecution of employer violations of the Occupational Health and Safety Act. Employers must be shown that this government takes the act seriously and that there will be harsh legal consequences flowing if the law is disregarded.

Interestingly, Environment minister Bud Wildman was quoted in the *Toronto Star* in July as saying precisely the same thing with respect to the province's environmental



protection laws. He made the same comment in announcing that \$2.5 million had been collected from convicted corporations and individuals in 1993.

We believe that workers in this province have every right to demand the same level of commitment to enforcement in respect of health and safety laws. Such a strategy of vigorous enforcement will enhance the existing financial incentives inherent within the workers' compensation system to promote the prevention of occupational injury and disease. We believe employers in this province are aware of the need to place more emphasis on prevention and the benefits which will accrue to them in terms of reduced compensation as a result. It shouldn't be necessary to offer further bribes to convince employers to do the right thing.

Now, that's a philosophical point of view; perhaps others don't share that philosophy. But from a more practical standpoint, does merit rating work? It's quite odd. When you look at this issue, merit rating has been around in Ontario since 1953 and it's been introduced in other jurisdictions since, but in spite of this history, there is very little evidence to establish precisely what impact these programs have on actual conditions in the workplace.

Again, if you go back to Paul Weiler, while he accepted the theoretical premise behind experience rating—and that theoretical premise, by the way, has nothing to do with the cost of claims; it has to do with improvement of health and safety conditions in the workplace—what he said was that it should not be introduced until there's an evaluation study along with it to make sure that in fact it was producing the result that in theory seemed to flow. Unfortunately, that was never done. The program has been introduced, but there's no evaluation.

The main criticism of experience rating is that it creates a greater incentive for employers to engage in what's described as inappropriate claims management activities, such as dubious reporting practices, conversion of potential lost-time claims to no lost-timers by retaining workers on the payroll, excessive resort to the SIEF and claims appeals, and inappropriate on-site medical treatment. The reason for this is obvious. From a health and safety point of view, the amount of investment that would be required in order to truly have an impact on health and safety conditions in the workplace is far greater than the amounts that you can save on your WCB premiums, so you're going to concentrate activities on claims management where you can achieve more for less cost.

Similar criticisms have been voiced with respect to the effect of merit rating on rehabilitation. Professor Terence Ison, in an extensive article covering both aspects, concluded that merit rating leads to bogus rehabilitation efforts by employers simply aimed at pressuring injured workers to return to work too early or to accept unsuitable jobs.

Very little study has been done of the actual extent to which these practices result from the introduction of experience rating, but there is a recent article that appeared in the *Journal of Occupational Health and Safety* in Australia and New Zealand where the author

studied statistics following the introduction of a merit rating program in the province of Victoria. As it turned out, the number of claims was reduced significantly; however, the decrease came in minor injuries. There was no corresponding decrease in more serious injuries or fatalities, which, at least for this author, allowed him to conclude that there hadn't really been any improvement in health and safety conditions but simply tighter claims management to screen out more minor injuries.

The Facts and Figures 1992-93 published by the occupational health and safety branch of the Ministry of Labour in Ontario tends to suggest a similar result in Ontario, where we have also experienced a significant decline in the number of claims, and yet the amount of benefits paid out has increased by 25% in real dollars during that same period.

We believe a similar phenomenon is taking place here. If you look at the statistics reported by the operations branch in health and safety, you'll find that the number of events responded to by the Ministry of Labour between 1991-92 and 1992-93 was up 42%, the number of workplace accidents reported to the ministry was up 38%, the number of critical injuries reported to the ministry was up 45%, the number of fatal accidents investigated was up 21%, the number of health and safety complaints received by the ministry was up 50%, the number of work refusals was up 17%, the number of reported accidents where no worker was injured was up 41%, and the number of reported occupational illnesses and diseases was up 84%. These figures do not indicate any trend toward improved health and safety conditions in this province, notwithstanding the decline in the number of claims.

**The Vice-Chair:** Excuse me. You have about two minutes to wrap up.

**Mr Ublansky:** Okay. If I could just flip to our summary then, we agree with Paul Weiler's conclusion that it is illegitimate to cut injured workers' benefits for financial reasons, and that the only proper means of reducing the costs of accidents is to reduce the number of accidents and occupational illnesses and diseases. We have concluded that the amendments in Bill 165, which provide the board with the discretion to create additional merit and experience rating programs and voc rehab practices, are well-intentioned but ill-advised. The critics of merit rating have presented sound arguments against the effectiveness of financial incentives in the workers' compensation system in prevention, and there has never been any convincing proof that these critics are wrong. As I've just gone over, there's evidence to suggest that they're right.

In light of that, we don't believe there's any justification for losing hundreds of millions dollars of revenue on these programs. We believe that the best way to encourage prevention is by a joint coordinated effort on the part of the Ministry of Labour and the WCB aimed at achieving compliance with health and safety laws and promoting real change within the workplace. If employers felt that there was a real threat that the Ministry of Labour would vigorously enforce the obligations imposed on them, they would comply with health and safety laws. In



addition, if they were informed about the true cost of workplace accidents and disease, which have been estimated to be anywhere from seven to 20 times the compensation cost, they would be more likely to see that prevention is in the best interests of both employers and workers.

Just by way of final comment, the costs of injury and disease will not go away as long as there continue to be accidents and illnesses. We can argue in these hearings about shifting that burden either to society as a whole or to injured workers in particular and away from employers, but as long as those accidents and illnesses are there, somebody has to pay the price, and we do not believe that it was ever the intention to shift that burden to either injured workers or to society as a whole. The whole idea of workers' compensation, and the whole justification for maintaining that system, is to contain the cost of doing business where it belongs, and if business can't operate safely, then that's where the problem exists, not in issues of benefits. The issue is accidents. Reduce the accidents. That's the only way to salvage this system. Thank you.

**The Vice-Chair:** Thank you, Mr Ublansky, thank you for taking the time out this afternoon and this morning for giving us your presentation. Thank you very much.

This committee stands recessed until 2 pm.

*The committee recessed from 1224 to 1405.*

#### ONTARIO RESTAURANT ASSOCIATION

**The Vice-Chair:** Our first presenters for the afternoon are from the Ontario Restaurant Association. Welcome.

**Ms Rachelle Solomon:** Good afternoon. My name is Rachelle Solomon and I'm the manager of government affairs for the Ontario Restaurant Association. With me today is Paul Oliver, who is the president of the ORA.

The Ontario Restaurant Association welcomes the opportunity to appear before you today to discuss our views on Bill 165, An Act to reform the Workers' Compensation Act and the Occupational Health and Safety Act.

As you see in the submission, which has already been distributed, the ORA has a number of fundamental concerns regarding Bill 165. Due to the limited time available and since many of the concerns which we have outlined in the submission are similar to those which have already been presented by other employer associations over the last few days, our presentation today will only highlight a few of our most serious concerns with Bill 165, especially the impact it will have on the thousands of small employers who comprise the vast majority of employers in the foodservice industry.

The ORA believes that real and fundamental changes in reform of the Workers' Compensation Board are critically needed. We remain strongly committed to this initiative. Unfortunately, we believe that Bill 165 falls far short of the types of fundamental changes which are required to solve the severe problems facing the WCB. In fact we are concerned that some of the changes contained in Bill 165 may inflict further long-term damage on to the workers' compensation system and put at risk worker benefits, as well as place substantial new costs on

employers in Ontario. We believe that real reform must be undertaken so that the WCB system becomes financially sustainable and in turn ensures security of benefits for workers and an affordable system for employers. Unfortunately, the ORA believes that Bill 165 falls far short of these objectives because it does nothing to address the serious long-term financial problems facing the WCB and could substantially increase the administrative and financial burden placed on small employers.

The ORA is extremely concerned that this legislation does not address the financial crisis which is confronting the compensation system. The crisis is very real and cannot be ignored. During 1993 the WCB for the first time faced a negative cash-flow situation, and the situation appears to be worsening.

It is our understanding that financial stability and preserving the long-term viability of the WCB system were the fundamental objectives of this reform initiative. We believe, however, that under Bill 165 the existing underfunded liability of \$11.7 billion will continue to grow to approximately \$13 to \$15 billion by the year 2014. Real reform must include the retirement of this debt.

The growth of the underfunded liability is especially disconcerting to service sector employers, who will be required to burden a disproportional share of the liability as traditional natural resource and heavy industrial jobs decline and are replaced with more service sector jobs. What we have done, and will continue to do under Bill 165, is burden new and future employers with a debt which will become a major disincentive for job creation in Ontario.

The failure to address the growing underfunded liability is one of the most glaring deficiencies of Bill 165. Not only does this legislation not address the serious financial crisis, but it also does not restore confidence in the compensation system.

The purpose clause as stated in the original Premier's Labour-Management Advisory Committee accord was intended to begin to address financial accountability, to entrench in the act the roles, responsibilities and relationships of the system's various components and to clarify the government's intentions in enacting the statute. Financial sustainability was supposed to be an overriding responsibility and theme of the reformed WCB.

Unfortunately, the purpose clause in Bill 165 centres primarily upon a recognition of the workers' interests and is silent on the financial sustainability of the system. It does not address the impact of changes to benefits or programs on employers, it does not establish any financial accountability standards, it does not require a continuing effort to improve efficiency in the workers' compensation system and it does not state the government's ultimate accountability for the system.

The proposed purpose clause does not contain financial responsibility as a purpose of the act and makes no reference to costs at all. We believe that the proposed purpose clause completely contradicts the intent of the accord and fails to recognize the needs of stakeholder groups, including both employers and workers.

Another major concern of the ORA is the gutting of experience rating as outlined in Bill 165, and I will ask Mr Oliver to comment on that.

**Mr Paul Oliver:** The development and implementation of the experience rating system has been one of the WCB's unqualified successes. Since its inception, the NEER program has been strongly supported by the employer community because it has helped to promote a fairer distribution of the assessment burden by rewarding good employers and surcharging employers who do not live up to industry performances.

Within the foodservice industry, experience rating has been strongly supported since its introduction. The effectiveness of the experience rating system has been very obvious and profound within our industry. The NEER system has been a major factor in reducing accident frequency by almost 30%.

Over the last several years the foodservice industry has been able to bring accident levels down substantially as a result of an increased awareness of the financial and social costs of injuries, internal corporate training, the experience rating program and the training and education undertaken by the Tourism and Hospitality Industry Health and Safety Education Program, known as THIHSEP.

During 1993 the entire foodservice industry averaged only 5,924 lost-time accidents, with the vast majority of these being very short in duration. For an industry employing over 250,000 people, representing approximately 350 million person-hours of work, over 20,000 workplaces and approximately 16,000 employers, this has taken a concerted effort by everyone in our industry to attain.

Most particularly what it means is that the average employer experiences a lost-time injury approximately once every three years. Considering that there are a number of very large employers in our industry, the average small or mid-sized employer is more likely to experience a workplace accident with lost time once every six to seven years. Many small employers simply do not have formalized rehabilitation and re-employment programs in their workplaces because, with the accident frequency which they experience, they simply are not required. They use instead accident prevention.

For many small employers, the NEER system is the only tangible outcome that they see from their commitment to health and safety training and is the only obvious benefit provided by the WCB because they have not experienced accidents in many years in many of their operations. Performance-based experience rating provides small employers with an ongoing and tangible incentive to continue to work towards maintaining an accident-free workplace.

The ORA is extremely concerned by the wording contained in Bill 165 because it appears that the government plans to fundamentally alter or eliminate the existing experience rating programs. Recent statements made by the Minister of Labour before this committee were positive in that they recognized that there is a problem with this legislation. However, the minister has failed to fully comprehend the concerns of the employer

community, especially the concerns expressed by small employers that comprise the majority of the foodservice industry.

It is the ORA's view that Bill 165 will move existing experience rating programs from a results-based program to programs which will reward or penalize employers based on a measure of process rather than experience. This should be seen as a fundamental departure from the existing program because it will substantially reduce or possibly eliminate the performance component of individual employers through the reduction of individual employer accountability.

Within the small business community this change will have a major and negative impact because it will create a new and expanding administrative burden. The experience rating program should evaluate and reward employers based upon results and not according to how many programs or processes they have in place or how much paper they can push.

In the future, if you want to get a rebate or avoid a surcharge, we fear that many small employers will be required to put into place costly programs which will serve no tangible benefit. Other small employers will be excluded from the rebate system because they simply do not have the resources capable of complying.

If the program is not broken, why try to fix it? The existing experience rating programs are working extremely well, and there is no need to change one of the few WCB programs which is functioning well. We are therefore asking this committee to remove this provision from Bill 165.

As I mentioned earlier, one of the factors which has reduced accidents within our industry has been the training undertaken by THIHSEP, which was founded in 1988. I regret to inform this committee that as of August 31, 1994, this program will no longer exist and the unique industry-specific training it provides will evaporate.

This is a move which has not been supported by either the THIHSEP bipartite board of directors or the hospital-ity industry. However, the Workplace Health and Safety Agency has ignored the industry's concerns and unilaterally moved to dissolve THIHSEP. This is in spite of the fact that our industry completely funds THIHSEP through WCB assessment charges. During 1993 THIHSEP was funded with a grant of \$985,000, yet our WCB rate groups were charged \$2.5 million to fund it; so in effect we paid for THIHSEP three times over. Even with the industry paying its own way, THIHSEP will be disappearing on August 31. We fear that this is a major blow for health and safety preventive training in the foodservice industry.

In conclusion, the ORA strongly supports efforts to reform the workers' compensation system, provided that the changes are balanced and financially sound. Unfortunately, the ORA does not believe that Bill 165 accomplishes either of these objectives. This legislation does not solve the long-term financial crisis facing workers' compensation. Instead of reducing the underfunded liability, it will actually grow under Bill 165. As well, this legislation will place an unfair and unbearable



financial and administrative burden on small businesses, seriously undermining employer confidence in the system.

Since this legislation does not accomplish the goal set out by the Premier when the PLMAC process began, we believe it should not proceed forward in its current form. The ORA believes that before WCB reform proceeds forward, fundamental changes must be made to this legislation. Without these fundamental changes, the credibility of the compensation system will be seriously undermined and its future placed in serious doubt.

**Mr Mahoney:** Thank you. I notice, and I guess it's due to time constraints, you highlighted the areas of your greatest concerns, but you also address in your report the governance issue, vocational rehabilitation and return to work. Could you in some kind of précis way express your concerns around those three issues, particularly the governance? I'd like to know your feelings on that.

**Mr Oliver:** Yes. Certainly we have some strong views on governance. We're concerned that the legislation will adopt a bipartite structure at the WCB. It will have an equal number of management and labour representatives with two outside people, one management and one labour, appointed by their respective communities.

We are concerned that bipartism has not worked at the governing board level. The failure of it at the Workplace Health and Safety Agency is a clear indication that bipartism works at the workplace but doesn't necessarily work at the policy level or the governing level.

The board at the Workplace Health and Safety Agency appears to be completely gridlocked on addressing issues. They've been completely incapable of addressing the concerns expressed by the small business community. The work that they've done to eliminate THHSEP, COSHA and CUSCO in spite of the bipartite boards in those respective communities not supporting it, has just been, in our opinion, a disaster. The last thing we need to do is put a board in place at the WCB which will likely gridlock very quickly, and that's what we're seeing is happening at the Workplace Health and Safety Agency.

What we're recommending instead is to move towards one that has both management and labour representation on the board, but also what we would consider non-aligned professionals, both from the health care field and from the financial community.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. I'd like to touch on the first part of your presentation, which spoke about the purpose clause and financial responsibility. As you will know, we have heard that from other presentations. I would like, if you could express to the committee, what is the impact if the financial responsibility aspect of WCB is not put in the purpose clause? What do you see as the negative impact as a result of its being missing from the purpose clause?

**Mr Oliver:** Well, it doesn't bound outside agencies or bodies that would influence the board of directors or the WCB system. WCAT and the government could unilaterally direct the board to start compensating for things that aren't covered or take a different approach. There's no governing that maintains that that has to be done in a financially viable or sustainable environment, and that's

one of the reasons we're sitting now with, at last count, an \$11.7-billion underfunded liability, because we have not put financial accountability into the system. If we don't put it in now, I fear that that will continue to grow.

1420

For the service sector that's especially disconcerting, because we've seen manufacturing jobs, heavy industry and natural resource jobs declining in Ontario, and that financial cost is being shifted on to new service sector jobs. If we're competing in a global economy for head office jobs, for computer jobs, these are the types of jobs that every time you create a job in Ontario you're going to be attaching a pricetag to it. Employers are going to say, "Why would I locate here, where I inherit a debt the day I create a job, when I can do it anywhere else in the world with new technology, new telecommunications?"

**Mr Turnbull:** Along the same lines, I suppose my concern is that in listening to the submissions here, which is not unlike other issues that we've had before us, there are the two extreme views of the different sides. It seems that the compromise that was reached by the working group that the Premier appointed earlier this year, to a point—and yes, there was a certain standoff at a certain point. The government has decided to cherry-pick the parts which labour wanted out of there and just abandoned all of the quid pro quo. You mentioned the impact of business locating here from around the world. Could you just expand upon that as a result of this?

**Mr Oliver:** I'll comment on two things. One is the accord that was reached. It was a compromise, as you say. When any accord is reached, it's a compromise. From the small business community, we certainly weren't happy with everything that was included in the accord, but there were tradeoffs that were made. We expressed our concerns to some of our business partners or employer partners, but the compromise was made. It was something where we said, "There are benefits here and there are negatives there, but we are willing to support it." We were quite frankly surprised that the government moved away from that accord so quickly.

The cost, though, for new businesses setting up within the foodservice industry—often people think you have to be located where your market is. But what we're finding is that a lot of companies now can do a North American mandate for purchasing, payroll and administration. They could be running it out of Orlando, Florida, or Minneapolis or anywhere in North America.

Those jobs will be extremely difficult to get in Ontario if we're attaching a potential deficit to every job that's being created. When other environments have lower tax rates and other things separate from those, they don't get a debt as soon as you create a job. You get rewarded, welcomed to Ontario: "Thank you for setting up a job. This is now your portion of the underfunded liability." That simply will be a disincentive to those higher-tech jobs—managerial, marketing—those types of jobs which are very common in our industry but are also very mobile.

**Mr Turnbull:** I guess there's the fear that the last person out the door is the one who's holding the bill.



**Mr Oliver:** The one who turns off the lights or is the last one out the door isn't always the person who pays the bill. In fact, when a factory closes down they don't pay a penalty. But it's when you create the job that you inherit the bill. At some point employers are simply going to say that they can't afford to create a job and assume a liability.

**Mr Turnbull:** It has been suggested by the government that in point of fact this increase to some \$13 or \$14 billion by the year 2014 is nothing to worry about, that because of inflation it will be relatively less than we have now and therefore we shouldn't worry about this. Could you comment on that?

**Mr Oliver:** Certainly we've already seen the impact a bit on rate assessments within the service sector industry. The percentage of debt on assessment used to be capped at 25%. This year it has been adjusted to up to 35%, in my understanding. Our industry's paying for it. Even though we have not incurred a large percentage of that debt, our industry's paying for it because it has new jobs that have been created in the last 10 years. In a lot of sectors where huge debts were built up, the job base just isn't there to sustain them.

**Mr Hope:** I have a number of questions. You speak about the experience rating. This morning we had the Toronto Workers' Health and Safety Legal Clinic come before us. You tell us that it's working well; it's reducing accidents. But the numbers presented to us in the document that was presented to us this morning, on page 10, clearly indicate that workplace accidents reported to the ministry were up 38% from 1991-92 to 1992-93; critical injuries reported to the ministry were up 45%; fatal accidents investigated, 21%; the number of health and safety complaints received by the ministry were up 50%; work refusals were up 17%; the number of reported incidents where no workers were injured were up 41%; and the reported occupational illnesses and diseases were up 84%.

There seems to be a conflict of what you're telling me about how the program is working, how corporations are being rewarded for their efforts, but evidence that's being presented to this committee indicates that complaints since 1991 compared to 1991 and 1992 are on the uprise.

It was also indicated in the report that managers or supervisors on their performance rating are also using accidents that occur in their departments as part of a prorating process. What's the issue of people trying to make sure that their performance record is not jeopardized by accident claims being reported?

I'm just having a hard time understanding. You're telling me the system is working; we get information provided to us that says it's not working. Everything is on the uprise; it's not on the downsize, and we're hearing that we've got to control deficit, but I'm still hearing employers saying, "We still want the moneys under the experience rating program to come to us, not to go to help offset the deficit situation that's there."

**Mr Oliver:** Excuse me, but I'm not sure what the question—I'm not sure what point you were making.

**Mr Hope:** Your report tells us how great the experi-

ence rating process is working, and how employers are really utilizing it, cutting accidents, reducing accidents, and this morning I get a report, on page 10, from the Toronto Workers' Health and Safety Legal Clinic that tells me everything's on the uprise.

**Mr Oliver:** So you want—

**Mr Hope:** Well, you're telling me it's working well; they're telling me by statistics it's not. Is it working or isn't it?

**Mr Oliver:** There are two points here: One, I wasn't aware that you had to formally file all your accident claims with the Minister of Labour. It was my understanding that you filed them with the Workers' Compensation Board, and that there are more workplaces that are putting higher emphasis on workplace accidents and are also filing those with the Ministry of Labour.

I think there's certainly an increased awareness of accidents and occupational industrial disease. I think that's reflected in those statistics, and I think it's reflected also in the work that groups like THIHSEP have done in enhancing training in the workplace. The workplace parties know more about accidents, know how to report them, and report them now to not only the Workers' Compensation Board but also the Ministry of Labour. I don't think they're incompatible; I think they're actually complementary.

Experience rating raises the importance of accident prevention in the workplace, and accident prevention starts in the workplace. It starts with knowledge and it starts with education, and that's what groups like THIHSEP are doing. They're doing the training and it's increasing the awareness of it, and people now are reporting it to two places. They report it to the Workers' Compensation Board and also to the Ministry of Labour.

**The Vice-Chair:** Ms Solomon and Mr Oliver, thank you very much for taking the time out and giving us your presentation today.

**Mr Offer:** I was wondering if we can get some clarification from ministry officials as to why, based on this presentation and previous presentations and, I think, presentations to come, financial responsibility was not also put in the purpose clause for changes to the Workers' Compensation Board. I'm not asking for an answer now, but I would like to get some rationale as to why there is no financial responsibility in the WCB system.

**Ms Murdock:** I think, Mr Offer, the suggestion is very valid, but it should probably come from legal counsel rather than the Ministry of Labour. We're abiding by the views of legal counsel and the drafters of the legislation, and they should probably explain it in detail to us.

1430

**Mr Mahoney:** I'd just point out that Mr Thomas, in his presentation—I would be quite happy to see something come from legal counsel in responding to Mr Thomas's explanation on page 7 of his report, on the initial day of these hearings, wherein he says, "The purpose clause is not the place," blah, blah, blah, and gives his reasons. Whether or not they're valid reasons

from a legal point of view I think is what Mr Offer is asking for, and I think that's something that, if it's agreeable with government members, we could ask for legal counsel to give us an opinion on.

CANADIAN UNION OF PUBLIC EMPLOYEES,  
ONTARIO DIVISION

**Mr Sid Ryan:** This is the Canadian Union of Public Employees, Ontario Division. We represent 170,000 workers in this province. On my extreme left is Jim Woodward, our legislative assistant; to my immediate left is Ralph Carnovale, our staff rep dealing with workers' compensation issues; and to my right is Bill Harford, the chair of our Workers' Compensation Board committee and also the third vice-president of CUPE Ontario.

The Canadian Union of Public Employees appreciates the opportunity to present its views on the proposed changes to the Workers' Compensation Board contained in Bill 165. I'd like to make some general comments first before we get into our detailed analysis of the bill.

The changes proposed, in our opinion, are of a mixed bag. Most we can endorse, but others we believe have altered the promise made to provide a fair and equitable compensation system to workers in Ontario. Even though we've got some reservations about a few of the sections of the bill, we do want to commend the government for having the guts and the courage to tackle the issue of reform of the Workers' Compensation Board.

CUPE supports the proposal to create a bipartite board of directors. This process has worked extremely well with the Workplace Health and Safety Agency and will produce positive results for the continuing reform of the Workers' Compensation Board.

Contrary to the previous speaker, who made some reference to the workings of the Workplace Health and Safety Agency, quite frankly, I don't know what he's smoking or where he's coming from. I sit on that agency and in the past three years, using the bipartite process, we have made over 300 decisions reached by consensus and one decision was reached by having to vote. In fact, on that particular occasion, the employers voted with the employee representatives on the board to give us the core certification and training program. So I don't know where he's coming from. It works extremely well and it's a process that we would most certainly want to see put in place in the Workers' Compensation Board.

We believe that the proposal to increase the pensions of unemployed workers with permanent disabilities is a humane and needed change. We applaud the proposal to improve the return-to-work and vocational rehabilitation sections. We also support the formation of a royal commission on reform to workers' compensation. We look forward, in fact, to participating in that forum.

We oppose some of the other proposals contained in this bill; for instance, the regressive proposal of the de-indexation of the COLA provisions, provisions we believe will take billions of dollars away from the incomes of injured workers.

We are conscious that employer organizations in Canada have been waging a campaign for many years now over the cost of compensation assessments. They've

used, with very good effect, the proposition that unfunded liabilities of boards are out of control and threaten the wellbeing of compensation funds and threaten the competitiveness of Ontario employers. However, this campaign has always concentrated on lowering benefits to workers and rolling back entitlements to benefits.

The real problem has been underfunding by the employers. They have constantly resisted any increases to assessments. They have also fiercely resisted any improvements in safety legislation that would bring about better protection programs at the work sites. I can speak to that first hand because, as I say, I sit on the board of directors of the Workplace Health and Safety Agency and I deal with it every day of the week, practically, where we have employers in this province fighting the implementation of safety programs that will eventually lead to lower rates in the compensation system.

Added to this is the fact that successive Ontario governments have failed to provide aggressive enforcement programs designed to reduce the injuries and deaths at work. Against this background, CUPE feels that to focus on the unfunded liability is an attempt to camouflage the real problems of workplace injuries, deaths and diseases.

In our opinion, there is a social contract that was struck between workers, employers and the government when workers' compensation was first introduced. That social contract still exists. Workers have waived their rights to obtain fair and equitable compensation through the court system in exchange for the promise of a no-fault system that provides income replacement for moneys lost because of workplace injuries and diseases. The Friedland formula is a reversal of this social contract.

We also believe that changing the act to give employers unrestricted rights to the medical records of employees is an invasion of privacy. It will provide employers with information that they will use to rid themselves of workers who might become a long-term liability. They will certainly use it to contest workers' claims for legitimate WCB payments.

Compounding our concerns, CUPE has difficulty in accepting that the board of directors will have to make all their decisions based upon financial considerations. This provision will be used constantly to thwart and dilute any needed policy changes or decisions. It will usurp workers' rights to a fair and equitable compensation system.

Because of the time allowed here today, I'm not going to go through all of the changes that CUPE would be proposing. We have given you documents in front of each of you which detail the changes. I will make some general comments.

Section 1 we believe is a good move, to change "industrial disease" to "occupational disease." It makes a lot of sense to the public sector workers, where the majority do not work in industrial settings but do suffer from workplace-related diseases.

Subsection (7.1): This proposal could jeopardize pension entitlement of workers who have been injured in more than one province. We believe that there is a statutory requirement to provide compensation based on



entitlement. A small pension from one province should not prohibit Ontario from paying benefits to workers who are entitled to them under the Ontario act. We recommend that this change be dropped.

Section 51, which deals with the return-to-work reports: This proposal could violate a person's right to privacy. These rights have been addressed in a number of forums, the most well known being the Krever commission on medical confidentiality.

Over the past few years, there has been a virtual explosion of employer representatives whose main purpose is to contest WCB claims, whether they be legitimate or not. In the same period, many consulting companies have sprung up who offer such services or who provide training sessions on how to frustrate WCB claims. A major segment of their program is to show how claims can be overturned by contesting medical evidence through the introduction of past histories of the injured workers. This, in CUPE's opinion, is the major purpose of the employers' demand to have access to private information.

The proposal only adds to the cost of the workers' compensations claims, because the board will have to pay for any reports obtained under this section. In addition, we feel the injured workers could be pressured or coerced into providing medical information. We definitely oppose this clause.

Section 58: This section requires that the board of directors has to act "in a financially responsible and accountable manner" when exercising its power and duties. This section could be interpreted to mean that the board of directors must ensure the assessment rates applied to employers are sufficient to meet the requirements of the board, including the unfunded liability. We suspect, however, that this section will very quickly come to mean that every decision will be measured against the employer's financial ability to pay for the measures.

This is a formula that will very quickly lead to gridlock of board decisions. The net result will be a board unable to make any decisions.

We suggest that it is a breach of the original social contract signed between workers and employers in 1914. We ask, when have employers ever admitted that they can afford changes to workers' compensation, or health and safety policies and legislation, for that matter? CUPE opposes the proposed language in this section.

Section 103: We support this change, because it will allow the board to act when employers are not living up to their vocational rehabilitation responsibilities.

Section 103 will give the board the ability to assess penalties on employers who have poor health and safety programs or practices. This is good if the board uses it to force better programs and practices. Hopefully, this will be used to greater effect than the present Work Well board program. The failure of this program is partially due to the inability of the board to conduct proper monitoring of the program. They rely instead on the employers to administer self-audits. If that practice continues, then these proposed changes will do little to reduce the number of claims.

We note with regret that the experience rating system is maintained. This policy rewards employers who can show a reduction in workers' compensation claims. Providing incentives for employers who show a reduction in claims has done little except to give birth to a whole new industry dedicated to disputing workers' compensation claims. The shabby practices that are implemented by employers in order to qualify for an assessment reimbursement include putting pressure on injured workers to return to work while still injured, having employees use their sick leave instead of workers' compensation, forcing injured workers to take inappropriate light-duty jobs to avoid claims and hiring personnel dedicated to disputing legitimate claims by whatever means necessary.

#### 1440

CUPE endorses a scheme that identifies employers with demonstrated bad health and safety records. We condemn schemes that reward employers for simply obeying the law to provide a safe and healthy workplace.

Subsection 147(14): We support this proposal that many permanently injured workers who exist on small pensions receive a \$200-per-month increase. However, we are concerned that many will not receive this money. The qualifying requirements are tied to the supplementary payment award. We would suggest that this requirement be deleted by adding another clause, 147(14)(c), stating, "if the board determines that the injured worker is receiving an inadequate partial disability award." We should allow the new bipartite board to be able to make that judgement.

Section 148, the Friedland formula: We oppose this section. These changes will reduce the present cost-of-living allowances that were implemented after many years of struggle. The new formula that is to be applied will save the board billions of dollars from the employer side; one estimate is \$27 billion. This is money that will be taken away from injured workers who are at present entitled to that money. The changes are simply a money grab, and a very large money grab, that is designed to lessen the employer obligation to fully fund the Ontario workers' compensation system. CUPE recommends that this change be dropped and that the present section 148(1) be maintained.

I'll finish up by saying there are three issues that we would have liked to see you address in this bill, but I'm positive they will be addressed in the royal commission. One is the question of deeming, where the board deems them able to perform such jobs and hence able to earn the amount of money that these pretend jobs would have paid and reduces the pensions by that amount. We would like the question of deeming to be addressed in the royal commission.

We would have liked to have seen coverage extended. There are over 700,000 workers in Ontario—the financial sector, banks, insurance companies, brokers, broadcasting, lawyers, dentists, nursery schools etc.—we believe should be covered by this plan. In addition, we've got some 20,000 employers who evade coverage by failing to register with workers' compensation.

Enforcement: There is a direct link between violations of the province's Occupational Health and Safety Act and



workers' compensation claims. An examination of the findings of coroners' juries in occupational fatalities will establish this link. In almost all inquests, the jury is able to identify violations of Ontario's health and safety law and regulations.

Every year, thousands of violations are recorded by the Ministry of Labour's health and safety inspectors. When one looks at the prevalence of back injuries that repeatedly occur in ever-increasing numbers, one must ask the question if employers are taking all precautions reasonable. Not only are back injuries recurring with regularity; at many work sites they often recur to the same worker.

An enforcement system designed to punish those who continually violate the health and safety requirements would go a long way towards reducing the number of injuries and claims. We believe it is time to stop blaming the workers' compensation system for being so expensive and concentrate on the real reasons for the high cost of compensation—namely, accidents and occupational diseases. Prevention could greatly reduce the costs. Enforcement seems to be the only way to ensure compliance. By blaming such issues as unfunded liabilities and overgenerous awards as the reasons for the funding crisis, we ignore the real issues: far too many injuries and far too many occupational diseases.

A proper enforcement program should be aimed at reducing the frequency of occupational injuries and diseases. CUPE believes that stronger emphasis must be placed on enforcement. We must stop divorcing the cost of workers' compensation from the issue of poor enforcement and proper health and safety regulations in the workplace.

As I said, we welcome the royal commission when it is established but believe that you should deal with the three issues we have raised and that are not covered by the proposed changes.

Thank you for your time, for listening today.

**The Vice-Chair:** Mr Mahoney, about two minutes.

**Mr Mahoney:** In two minutes I can't get into a debate on the health and safety agency, so we'll have to save that for another day, because I would certainly take some difference with respect to your analysis of how it's functioning.

**Mr Ryan:** I thought you'd say this.

**Mr Mahoney:** I want to deal, though, with a number of the concerns. Thank you for the detailed presentation. As I know you had to skip to get it all in and go over a few things, I've gone through and I've identified 12 areas in this bill that you categorically, without any question, oppose, and do so, in your usual fashion, very strongly.

How then do I reconcile the statements at the beginning of congratulating the government and supporting the reform and the courage to tackle this thing and what I take to be the position that, if you indeed were sitting on this committee or were a member of this Legislature, notwithstanding the fact that you oppose this in 12 major areas, you support the bill? Help me with that.

**Mr Ryan:** Very simple. To begin with, your government had an opportunity when you were in office, and so did the Tories when they were in office, to address

workers' compensation in this province. You repeatedly ignored—

**Mr Mahoney:** Can I get an answer to the question?

**Mr Ryan:** You're going to get an answer, if you just wait long enough.

**Mr Mahoney:** I don't really care about your opinion of former governments. I have clearly and publicly said—

**Mr Ryan:** You asked a question. I'm trying to answer the question.

**Mr Mahoney:** —that all former governments are complicit in this.

**Mr Ryan:** Why don't you wait for the answer?

**Mr Mahoney:** Why don't you answer the question?

**Mr Ryan:** Why don't you just listen and you will hear an answer.

**The Vice-Chair:** Mr Mahoney, you've asked the question. Would you like a response?

**Mr Ryan:** You asked me how could I support it, and I'm telling you how I can support it. I happened to be the unfortunate individual who sat through 40 years of Tory rule and six years of Liberal rule in this province, and you had an opportunity to introduce reform to workers' compensation and you never did. So here's a government that brings in legislation, and like all pieces of legislation, it's not exactly what I would like. There are some changes, and that's what this process is about. My organization came in and we identified for your committee changes we would like to see in this legislation.

We did identify some of the strong reasons why we would support it, and that is the bipartite board—it's long overdue—and pensions for those people who have been excluded by your government and by Tory governments for the past 20 years. That's why we support it, because we're hearing loud and clear from those workers they want to have protection against inflation, they want to have a decent wage, they want to have a decent standard of living.

I listened to those people come into these hearings last night, injured workers coming in with neck braces, walking in here with walking canes and sticks, pleading with this committee to make sure we provide them with adequate pensions, and that's what I see this piece of legislation doing, providing them—

**Mr Mahoney:** Despite 12 areas in the bill you are strongly opposed to, you would vote in favour of this bill.

**Mr Ryan:** It's a democratic process, Mr Mahoney, and all of us live in a political system. We don't always get all of the cake. We're coming in here and we're trying to influence the system as best we possibly can to make sure we get the best possible product. That's why we've highlighted for you and for the rest of the committee some changes we'd like to see made to this bill.

**Mr Turnbull:** I just want to go on record as saying that I object to the fact that we cut off the employers' group that had advised the Premier. We couldn't allow any extra questions because we had to adhere to 20 minutes, and now we're going over the 20 minutes.

**The Vice-Chair:** We're only 16 minutes into this presentation.

**Mr Turnbull:** I want to ask you, would it not make a great deal of sense, given the number of areas of concern that you've got, to wait for the royal commission to report and then to see what the royal commission has to say? I mean, you've identified several areas where you have great concerns.

**Mr Ryan:** I think injured workers in this province have waited long enough. As I say, your government had 40 years to implement changes and never did, and the Liberals had five or six. I don't believe injured workers can afford to wait much longer for very much needed changes.

Royal commissions have a way of taking their time about conducting their business, reporting back; other governments have ways of taking their time to implement the recommendations of royal commissions. Here we're seeing a government that's taking the bull by the horns and saying: "These are some very much needed changes that have to be made immediately. They have to be done because injured workers are saying, 'We desperately need'"—

**Mr Turnbull:** That's what they said about the social contract.

**Mr Ryan:** That's a different issue, Mr Turnbull. I can address the social contract—

**Mr Turnbull:** That was then; this is now.

**Mr Ryan:** —just as forcefully as I can address this issue. But anyway, the short answer is that injured workers cannot afford to wait.

**Mr Mahoney:** So de-index their pensions.

**Mr Hope:** I want to thank Mr Ryan for the presentation, as he has clearly outlined in specific sections of the act where he agrees and where he doesn't agree and it's helpful for committee to look at those. I haven't gone through them all because we had to skip through the process, but I believe some of the issues you brought forward were well deserving.

I notice when you were trying to get an answer across to Mr Mahoney, I'm sure you'd want to tell him that the revenue-neutral aspect of Bill 162 was supposed to put a \$1-billion unfunded liability to the workers' compensation system, but I'm sure he wouldn't want to hear that.

1450

Mr Ryan, people have been coming before this committee—and I know you've been involved in negotiations. When a group of people who are bargaining a contract or working out an agreement walk away from the table, in your opinion, does that agreement stand when one party leaves or does the agreement dissolve itself?

**Mr Ryan:** You mean when both parties agreed to—

**Mr Hope:** Let's say, for instance, you're in negotiations and you run into a stalemate and one party walks away from it. Does the contract still live or does the contract die? I'm asking you this because we're hearing employers saying there was an agreement put in place, but the employers walked away from the table. I would just like your experience in negotiations—and I see your colleague beside shaking his head up and down. Maybe you'd like to answer it. I would like your opinion on that.

**Mr Ryan:** I was part of the PLMAC in the early days before I resigned from it, not because of workers' compensation, I can assure you; it was because of the social contract. The question you're asking me was, I believe there was an agreement between both parties, and if one party wishes to walk away from it, I believe the agreement still stands and should stand, and that's what we've done in this particular case. We've now implemented the main elements of that agreement in this legislation.

**The Vice-Chair:** Mr Ryan, Mr Carnovale, Mr Woodward, Mr Harford, thank you for coming here today and giving us your presentation.

REUBEN ROTH

**Mr Reuben Roth:** My name is Reuben Roth. Members of the committee, Mr Chair, the Ontario Workers' Compensation Board, established in 1915, has had a long history of administrative affliction. Indeed, some speculate that the WCB has had such a problematic past precisely because it lacks the legislative clout and authority necessary to fulfil its mandate.

The newly proposed Bill 165, An Act to Amend the Workers' Compensation Act and the Occupational Health and Safety Act, is an effective though flawed beginning which attempts to remedy the board's current malaise. I speak to you today in support of Bill 165. However, I have several reservations regarding this piece of legislation. I will begin with some general remarks which I hope will set the stage for my views.

According to Dee, McCombie and Newhouse, authors of a book on workers' compensation in Ontario:

"Workers' compensation is a unique mixture of law, social policy and plain old political lobbying. It developed in the days which preceded almost every social protection scheme that we now associate with the 'welfare state'.... Because of its unique funding mechanism by which all money paid out in benefits derives from assessments on Ontario employers, with no money from the provincial treasury, the ebb and flow of workers' compensation development has been left to the two major 'users' of the system—injured workers and employers. As long as neither group was disgruntled, there was no reason for the politicians to worry too much about 'saving taxpayers' money' or 'expanding social programs.'

Therefore, because of workers' compensation's pre-Keynesian roots, it has retained a rather different structure from its other administrative-board cousins.

Had Ontario's compensation board been established during the period around the Second World War, for example, it may well have not resembled its current structure. But the logic of linking workplace accidents to employer responsibility seems to have been forgotten in the interim, and the WCB's potential debt has been portrayed as a burden on the public purse and business competitiveness. The bogeyman used to facilitate the view of the WCB as a runaway train is the so-called unfunded liability.

Earlier this spring the PLMAC business caucus made the public proclamation that "If it were a private com-



pany, this organization [the WCB] would have had to declare bankruptcy." With this statement, war was effectively declared by business interests on both the WCB and injured workers. The business caucus's publicity wheels had been set in motion the previous year and criticism of the board's unfunded liability had reached a fever pitch earlier this year. But I urge you not to fall prey to a campaign of misrepresentation and denial of responsibility.

Let us be clear on what an unfunded liability really represents: An unfunded liability is not necessarily a clear loss of revenue. It is a calculation of what an organization would have to pay out in the event that its shareholders called in the debt, past and future, owed to them. Few private companies would be able to immediately repay their unfunded liability without suffering bankruptcy, and certainly fewer individuals would be able to respond were the holder of their mortgage to demand immediate repayment.

At any rate, individual injured workers are not at liberty to call in the debt owed to them. In fact, workers have neither the power nor the inclination to call in their debt. Accordingly, the unfunded liability is something of a phantom and unlikely ever to materialize. That injured workers are expected to pay for the business community's phantom is a farce of the worst kind. It penalizes those who can least afford to pay and it ignores the principles upon which workers' compensation was founded.

In 1914 employers, represented through the Canadian Manufacturers' Association, the CMA, demanded among other things that the fund be financed by workers and government as well as employers, that time limits be placed on benefits, that workers who could be shown to have contributed to their own misfortune should be barred from receiving compensation and that a shared scheme with private insurance participation should be implemented topping up payments.

In his final report, Justice Meredith made the following recommendations: (1) the system of compensation be no-fault; (2) an arm's-length administrative board be formed, not a state-run body; (3) benefits be paid as long as injury lasts, with no time limits; and (4) the board's funding to come from the employer sector only.

On the whole it seems that even a former leader of the Conservative Party, Justice Meredith, had ignored the pleas of employers and recommended the implementation of a flawed but fair system of compensation.

Today's PLMAC business caucus might easily have lifted their demands from the 1914 report of the Canadian Manufacturers' Association, such is the apparent nature of business' interest in reforming the act.

For example, the business demand that government pick up the tab and remain involved in the board is akin to the 1914 CMA demand that the fund be financed by government and workers. The business caucus's demand that a two-week waiting period and a reduction of benefits to 85% of net income be implemented to keep compensation costs down is akin to the CMA's demand that time limits be placed on benefits. The PLMAC business caucus's demands to opt out of the act at will and share costs with private insurers is little more than

the 1914 call for private insurance participation. Such is the goodwill of the business lobby to negotiate a workable agreement. It seems that business's ideas on the rights of workers injured in the course of their duties is still mired in the early 20th century.

In attempting to modify compensation legislation, I urge committee members to bear in mind that employers have historically borne and should continue to bear the financial responsibility for this system of compensation. Any shortfall between WCB revenue and expenses should be borne solely by business, not by those who are injured due to the practices of business and not by general tax revenue.

Workers' compensation should not be considered part of our social safety net, nor should it be subject to the current mania in both business and media circles to reduce publicly funded deficits by cutting social programs. Simply put, supporting workers' compensation should only be seen as the cost of doing business in Ontario.

Currently, business is generally either unwilling or unable to see that the board's needs, and indeed the board's demands, are as unique, and apparently as unrecognized, as the needs of injured workers themselves. For example, the requirement for a unique space in which to house WCB employees is a direct outgrowth of the elevated standards necessitated by the injuries suffered by the WCB's clientele. That there is no suitable existing office space for the board is seen by business, the media and opposition critics alike as something of an outrage.

Curiously, these critical parties ignore the unique requirements of those injured workers who are to be served by the new facility. They are deaf to the groans of the injured who are unable to convince their accident employers to adhere to legislation which requires a similar accommodation.

In fact these special building standards are similar to the workplace accommodation which injured workers have been granted in previous workers' compensation legislation. However, to date employers have been generally successful in evading the stipulation to provide on-the-job accommodation for their injured employees.

Employers tend to view the injured as a nuisance, a necessary but bothersome byproduct of doing business. This apparent lack of vision is perhaps due to the blinders necessitated by the need to do business in a competitive environment. Indeed, the inability to see the damage it is doing is a good argument to exclude business from a bipartite board.

#### 1500

The corporate view regarding worker health and safety has always been one of cooperation and harmony. Historically, a chief source of this consensus outlook is the provincial health and safety labour legislation, which traditionally sees managing health and safety as a joint responsibility to be taken up between labour and management.

However, Glasbeek and Tucker, who recently released a study examining the 1992 Westray mine explosion in Nova Scotia, discussed this conflict between employer



and employee in a market economy and they explain that these relationships are "inherently conflictual" and the illusion of a "truly shared ideology" can be maintained only with a great deal of effort. They conclude that, "To date the effort to uphold this myth has been largely successful," and,

"The degree of danger at work is not just simply related to natural conditions or technical capacity. In this context, the Westray [mine disaster] story is illuminating precisely because the particular conjuncture of unequal power and the near-total acceptance of the need to please private capital made the working of the health and safety regulatory machinery so fraught with danger. But it need not be this way."

Thus it has been declared by the Canadian state that health and safety issues must somehow be dealt with by consensus. Somehow, it is reasoned, workers and management are supposed to drop their traditional adversarial roles and see the issues of health and safety outside of the sphere of labour-management conflict. Glasbeek and Tucker also write that:

"A central pillar of consensus theory, and the regulatory approaches justified by it, is that labour and capital share a common set of goals. In part, if this is so, it is argued, it is because there is some rough equivalence between them. One aspect of this equivalence is in relation to risk-taking. Employers risk their capital, workers their lives and health. On its face, the notion that these risks are equivalent is absurd."

Thus, workers' compensation legislation has been subject to the input of management as well as labour. This clearly appears to be a conflict of interest for management, who are driven by a desire for ever greater profit, often at the expense of worker health and safety.

Therefore, the conflicting demands of profit versus the concern for employees' health is another important factor at the root of the WCB's problems. That these two bodies, employers and labour, are to be the major shareholders on the board of directors proposed by Bill 165 ignores the obvious figure looming in the background: the injured worker.

Injured workers, via their representative organizations, are surely a major stakeholder in the compensation process, yet somehow this obvious omission has been ignored.

The PLMAC process is unusual in the realm of legislation-building. On the one hand, it brings together two of the partners involved in the compensation process, in much the same tradition as the western European labour-management model. On the other hand, the PLMAC process ignores the reason for the board's very existence, the injured workers themselves. Accordingly, there must be a legislated mechanism within Bill 165 which will bring injured workers on to the WCB's board of directors as a partner in the decision-making process.

Unfortunately, at present the various injured worker groups lack the funding to finance an adequate lobby effort. After all, as an organization composed largely of injured workers, it is naturally an organization hampered by lack of money. Without adequate office space, staff

and lobbying, the injured workers' groups will continue to be shut out of a process which should rightfully and reasonably include them.

Injured workers can either continue to be the number one problem at the offices of provincial MPPs across the province or they can unite in self-sufficient groups which see the injured help themselves. Although this is currently a reality in Ontario, there is a need for a more secure form of injured worker group funding across the province. A solid financial base would enable injured workers' groups to establish more regional offices across the province. It would also enable injured workers to lobby Queen's Park as effectively as employers currently do and it would augment and relieve the WCB of its now overburdened advocacy services.

To conclude, at the beginning of my submission there is a quote by an executive of Honda motors, Shoichiro Iramajuri. The quote reads as follows: "You have to understand that the human being is the most flexible robot." Mr Iramajuri speaks the language of business. He speaks of the daily reality in workplaces all across Ontario. The language of business does not allow room for the troubles of a pesky minority. The language of business, as we've seen at these hearings, easily speaks of unfunded liabilities, experience ratings and financial responsibility frameworks, but there's been precious little sympathy shown for people.

These are, after all, only people who are harmed in the course of doing their job. However, unlike a broken sprocket, you just can't throw away people. Business realizes this and wants injured workers to simply go away as cheaply and as quietly as possible. You can't blame business for doing what businesses do best, and that's making money.

An example of this businesslike principle is best embodied in the following Bill 165 proposals:

—Section 33, which hopes to amend 148(1), which contains the unduly punitive Friedland formula: Although very good for business, it's a nightmare for injured workers who already make do with less.

—Also, the puzzling subsection 58(1) proposal, which states, "The board...shall act in a financially responsible and accountable manner": This is akin to a corporate mission statement which reads, "We shall make as much profit as humanly possible"; in other words, it's a given.

—The vague section 8, which prohibits compensation to a worker if they are "receiving compensation under the law of another jurisdiction."

These provisions are all the reflection of the competitive business environment and the will to erase phantom unfunded liabilities.

However, what business is apparently not very good at is taking care of injured people. That's the job of government.

I, for one, welcomed the Labour minister's opening statement, that "Ontario's first-ever social democratic government will not reform workers' compensation on the backs of injured workers. It has been a long time coming."

With Dee, McCombie and Newhouse's earlier quote in

mind, that "workers' compensation...is a unique mixture of law, social policy and plain old political lobbying," I would like to see a diminished possibility of future interference with the WCB and therefore I feel compelled to give my vote of support to the proposed bipartite structure of the board, with the hope that it will eventually include injured worker representation.

Bill 165 contains some solid proposals which make it worthy of support. Section 32 is a small, albeit long-awaited, step towards alleviating the poverty of an estimated 40,000 injured workers. Its payment should be as foolproof as possible, and it has been suggested that subsection 147(4) is not the best vehicle for these much-needed funds.

Section 27, which allows for a penalty assessed by the board on an employer who does not cooperate in vocational rehabilitation programs, is another welcome amendment. For too long, employers have openly flouted laws which require them to re-employ the workers they injure.

The much-needed royal commission of inquiry is a long-overdue step towards better board programs, such as more accessible vocational rehabilitation provisions, modifying or even eliminating the current systems of experience rating and deeming, studying the link between the rise of lean manufacturing techniques and occupational disease and, finally, including office workers in the act. This last proposal is not a new one by any means. But with the dramatic rise of repetitive strain injuries due to the increased use of computer keyboards, the estimated 700,000 office workers currently not covered by the act face the cruelty of a crippling on-the-job injury without workers' compensation coverage.

Workers who have been injured on the job have given up much more than steady employment or a regular paycheck. As Chris Doran of the University of Saskatchewan writes:

"WCB legislation, by encouraging an individualized and 'accident'-oriented notion of 'ill health,' prevents workers from formulating their health in the more holistic terms which they had used in the early 19th century. At that time, industrial capitalism itself was seen as the cause of their ill health—not because it produced accidents in the workplace, but because it led, much more seriously, to the general debilitation of their health. Health, as formulated then, was an aspect of people's lives to be preserved, not compensated."

In other words, workers' compensation legislation has stolen the very idea of good health from workers. That we now take for granted the notion that work is expected to hurt is nothing short of a crime. We have sacrificed the concept of good health in exchange for mere wages. We have internalized the message that workers have no right to complain that their health has been turned into just another commodity. After all, they're getting their comp, aren't they?

Thank you for your time and attention. I now welcome questions from members of the committee.

1510

**The Vice-Chair:** We have time for about a 15-second

comment from each caucus.

**Mr Mahoney:** Thank you. You obviously did a lot of work in preparing that, and I appreciated your doing it, although I strongly disagree with much of it. But let me just ask you one question. You quote Mr Mackenzie on page 10, where you say you agree with his quote—"It has been a long time coming"—that "Ontario's first ever social democratic government will not reform workers' compensation on the backs of injured workers." That was in the written transcript.

What he actually said was "solely on the backs of injured workers." It was interesting. He added the word "solely" to that, not in the written text, but you'll find it in Hansard. In essence, what he's admitted is that by implementing the Friedland formula, by taking the money and giving out the \$200 increase and de-indexing all other injured workers' pensions, he is indeed reforming this board on the backs of injured workers, certainly to a degree.

If you couple that with your statement that the shortfall should only be paid solely by business—well, business feels they are solely paying it, but if you look at the Friedland formula here, now injured workers are paying it. I'm wondering how that fits with your philosophy in this paper.

**The Vice-Chair:** Mrs Witmer, do you have a comment?

**Mrs Witmer:** Yes, I would simply say thank you very much.

**Mr Mahoney:** Don't I get an answer?

**The Vice-Chair:** We don't have time for questions.

**Mr Mahoney:** We don't have time for an answer? Let the man answer.

**The Vice-Chair:** Just a quick comment, a quick comment. Mrs Witmer.

**Mrs Witmer:** Yes, I simply said thank you very much for your presentation.

**Mr Mahoney:** He didn't answer my question. What is this?

**The Vice-Chair:** Ms Murdock.

**Ms Murdock:** Actually, he's raised a number of issues that have been discussed already by other groups, but also a couple of other areas that I think should be looked at, the issue particularly of similar kinds of injuries in other provinces. So I'll be looking at that, and I thank you.

**Mr Roth:** Thanks for your attention.

**The Vice-Chair:** Mr Roth, on behalf of this committee I'd like to thank you for taking the time out and giving us your presentation today.

**Mr Mahoney:** Mr Chairman, I'd like to suggest that the gentleman be given an opportunity to respond to my question. If he thinks that I was unfair, I think he should be given a chance to respond to it.

**The Vice-Chair:** As was discussed before, there are 20 minutes for each presentation and there is no time, unless you can get consensus from the committee.

**Mr Mahoney:** Committee, what do you think?



**Mr Offer:** I say yes.

**The Vice-Chair:** Do we have consensus?

**Mr Mahoney:** What do you think?

**Ms Murdock:** No.

**Mr Mahoney:** Oh, you want to muzzle him.

**The Vice-Chair:** We don't have consensus.

*Interjections.*

**The Vice-Chair:** Order, please.

**Mr Mahoney:** Let the record show that the government members don't want him to answer my question.

#### MOTOR VEHICLE MANUFACTURERS' ASSOCIATION

**Mr Mark Nantais:** Mr Chairman, members of the committee, we thank you for the opportunity to be here today before you. My name is Mark Nantais and I'm the president of the Motor Vehicle Manufacturers' Association. With me here today I have Rosemary McNamee, who is the associate administrator for salaried personnel and benefits policy, General Motors of Canada Ltd; Bruce Waechter, labour relations planning manager for the Ford Motor Co of Canada Ltd; and Mr Rick Thrasher, who is the supervisor, workers' compensation and medical plans, Chrysler Canada Ltd.

Ladies and gentlemen, these are the experts whom I have with me today and hopefully there will be time remaining that you can direct some questions to them. They'd be pleased to respond.

I'd like to preface our presentation by outlining the fact that the Motor Vehicle Manufacturers' Association is an industry association representing Canada's major automotive and heavy truck manufacturers. We have nine very prominent companies: Chrysler Canada, Ford and General Motors, or course, as well as Freightliner Canada, Mack Canada, Navistar International Corp, Paccar of Canada, Volvo Canada and Western Star Trucks.

The association's purpose in a thumbnail is to provide a forum whereby issues of common concern can be addressed in a consensual manner. Clearly, this is a subject which our industry has chosen to address in a collective manner.

The motor vehicle industry is critical to the economic wellbeing of Ontario. As noted in your handout, actually one in six jobs in Ontario is either directly or indirectly related to the motor vehicle manufacturing industry. Investment by our industry, primarily in Ontario, where about 80% of all our manufacturing resides, from 1991 through 1993 was about \$6.5 billion—I don't know of any other industry that has made such investments—and the entire industry accounts for more than 4% of all Canada's gross domestic product. Obviously this represents a much higher percentage for Ontario.

As I'm sure you're also aware, the auto industry is a fully rationalized industry on a North American basis where product sourcing decisions are made. Ontario plants must actually compete with US and Mexican sister plants, head to head, to obtain product mandates. Ontario plants must remain competitive or risk losing allocations of future product. There are no guarantees in the auto industry for Ontario—or for Canada, for that matter.

This is why the Ontario workers' compensation system causes grave concern among my colleagues and I. In the presentation which we've distributed to you, there are a number of charts which we'd like you to take a look at now.

Figure 1 shows a bar graph illustrating that the Big Three auto makers' WCB costs of \$1.85 per hour of production for 1993 is more than double that of their US counterparts, which come in at a cost of 82 cents. Both of these costs are in Canadian currency. This is one more indication why Ontario is not becoming a very competitive place to do business.

In our industry within Ontario, there is currently no connection between the current accident frequency and severity improvements that have been achieved and the cost of workers' compensation.

If you would turn to figure 2, that chart shows a decline in accident frequency, for 200,000 hours worked, from 11.8 in 1991 to 9.7 through June 1994, and assessment cost increases in the same time period from \$147 million to \$185 million. These statistics represent experience for the Big Three automotive companies.

In figure 3, assessment funding for all Ontario automotive rate groups has increased from \$172 million in 1991 to fully \$268 million in 1993. Again, in figure 3 the severity of these claims has, for the same time period, decreased from about 530 days to 367. You will note the second cost line on this graph shows the net assessments for 1992 and projections for 1993 as a result of NEER experience cost rating. We will speak to the significance of this later in this presentation.

Turning to figure 4: This relates to our own insurance plans for sickness and accident occurrences which report frequencies actually four times greater than that of work-related disabilities. Even though there are four times as many lost-time claims, the cost factor is about a third of workers' compensation assessments paid during the years of 1991 through 1993. This serves as an example of how our number of disabilities as a result of workplace incidents is out of line with the resultant costs. It should also be noted that the administrative costs for WCB are approximately 20%, while corresponding costs for companies' sickness and accident benefits are approximately 1.5%.

In general, I would reiterate the comments of Mr George Peapples, a member of the Premier's Labour-Management Advisory Committee, when he said that in drafting Bill 165, the government had "cherry picked" from an accord reached between industry and labour on how to correctly reform the Workers' Compensation Board. It is incomprehensible why the government of Ontario would not utilize a package of reforms developed and agreed upon by labour and management. When an agreement is reached between two parties, a third party simply should not change this agreement.

This standing committee has no doubt heard this from previous presenters, you will hear it again in the days to follow and you're hearing it now: There is no business support for Bill 165. Fundamentally, and contrary to what has been reported in the press, Bill 165 does not represent in any way the PLMAC accord that the business and



labour communities presented to the Premier back on March 10 of this year.

We are concerned that the bill does not make any provision for a financial accountability framework which would take into account the financial impacts of changes to any element of the system. This financial accountability was recommended in the purpose clause developed in the March 1994 accord, as I mentioned, a provision the government has chosen to ignore. I believe a copy of this was presented to this committee yesterday by the business steering committee.

1520

One need not look beyond the purpose clause of Bill 165 to see how the government has distorted a genuine attempt by the workplace partners to reform the system. Instead of a purpose clause which balances the interests of financial responsibility, administrative accountability and the study of the financial impact of changes to any element of the system, we now have a purpose clause within Bill 165 which only makes provision for expanded entitlement. This will result in a further increase in the unfunded liability because, as we previously stated, there is no financial responsibility framework contained in the bill. A purpose clause is a cornerstone for all involved with the interpretation of any legislation that is being drafted.

The MVMA has a number of additional concerns. In the area of vocational rehabilitation, Bill 162, which was enacted in January 1990, clearly defined the board's role in vocational rehabilitation. The subsequent study in 1991-92 provided for in the Chairman's Task Force on Service Delivery and Vocational Rehabilitation presented many recommendations which have been implemented by the Workers' Compensation Board. Sound judgement, expertise and commitment on the part of the board's rehab officers, working with employers I might add, workers and physicians as well, as mandated by this previous legislation, will ensure positive results. There is no need for yet another assessment of penalties on employers if the WCB administers the current act as it is written.

In the area of governance, the MVMA takes exception to the direct involvement by the Minister of Labour who will, for all intents and purposes, direct the WCB for one year as laid out in section 16 of the bill. The memorandum of understanding which is also to be signed perpetuates this involvement of the ministry in the policymaking of the board. I really have to ask: Does this government lack confidence in the proposed bipartite board of directors' ability to steer a course for the Workers' Compensation Board? It is essential for the board to retain the responsibility of administering the legislation and policy development without interference from those who may be politically motivated.

Within section 32 of the bill, there is a provision for the payment of an additional \$200 per month without any individual needs analysis being undertaken. It has been estimated that this measure alone will add \$1.5 billion to the unfunded liability. The indexing factor for benefits as contained in section 33 adds a significant exemption to the application of the indexing formula and, as such, the

long-term unfunded liability of the system will continue to be adversely affected.

We have referenced other concerns in our submission for your review. However, we would like to take the remainder of our time to address an issue that is of utmost importance to the members of the MVMA and, we believe, the business community at large; that is, the experience rating under the NEER rating system. Provisions of Bill 165 actually obviate a proven mechanism that has been a major factor in reducing accident frequency and duration of lost-time claims within our industry.

Experience rating is a pivotal issue for us. It has proven to be extremely successful in meeting the objectives of the WCB to lower accident frequencies and severities. The experience rating system simply must not be tampered with. Bill 165 proposes to replace a results-oriented, direct incentive-based approach to accident reduction and expanded return-to-work opportunities with an administrative, process-based approach to obtaining uncertain experience-rated rebates or surcharges. This intrusion into a program that by all accounts has been an unqualified success in achieving the board policy goals set for it is unwarranted and adds elements of subjectivity which lead to confrontation. This is diametrically opposed to the PLMAC accord that promoted the notion of an additional incentive component to be added along with the development of a template of best practices.

NEER experience rating rewards or penalizes employers based on their ability to achieve projected cost targets. Our industry became involved in the review of the NEER experience rating as a result of earlier assessment discussions with the Workers' Compensation Board. At that time, increasing accident frequencies and costs were threatening to result in an assessment increase of 30%. The board actuaries were demonstrating that the automotive industry assessments were not even covering the lifetime cost of current-year claims, let alone the necessary resources for paying our portion of the unfunded liability and administrative costs.

Our industry became true believers in the benefits of cost accountability through experience rating, and began a process which implemented positive initiatives to be proactive in the prevention of injuries through improved safety awareness and practices. We also began a process which implemented positive programs to assist workers in reducing their time on claim. Some of these initiatives include establishment of ergonomic committees, hiring plant ergonomists, ergonomic job analysis, enhanced joint company and union safety training programs, in-house rehabilitation facilities, improved Workers' Compensation Board claims management, hiring rehabilitation nurses and therapists, rehabilitation placement committees, and modifying jobs to fit the restrictions of injured workers.

These initiatives resulted in a complete turnaround in our cost experience by the time we entered NEER for the 1992 accident year. This has been demonstrated by significant reductions in our target assessment rates published by the board in each subsequent year as well. Experience rating and the ability to track WCB expected versus actual cost experience by individual claim has

been a primary factor in motivating our MVMA companies to take action to reduce both the severity and frequency of accidents in the workplace.

At this point I ask the members of the committee to refer back to figure 3. In figure 3, as I mentioned, there is a net assessment with the NEER line drawn showing the very positive cost reductions for our 1992 and projected 1993 experience. This equates to \$33 million for the 1992 accident year and \$47 million for 1993. Any assessment levied for past cost and claim experience is not factored into the experience rating review. We continue to pay our fair share of the unfunded liability and overhead costs. We do not get refunds for which we are not entitled due to improved claim or cost exposure. Experience rating merely brings the costs to be paid out by a company more in line with the actual accident experience of the employer. Bill 165 will only remove the certainty of obtaining any incentive for investments undertaken to meet the projected cost targets.

We understand that Labour minister Bob Mackenzie has indicated that the wording of the bill will be amended and has just this week introduced a government motion to the committee to substitute current language set out in section 28 of Bill 165. The major advantage of experience rating is that the rules of the game are clear: It is both measurable and predictable. Employers know that if they do two things—that is, reduce the number of lost-time injuries and reduce the time off the job for those employees who are injured—there will be a direct payoff under experience rating. The motion as proposed by the minister leaves experience rating open to subjective interpretation.

If there is a need identified to change existing experience rating formulas, a working group should be established with representatives from the board and business community. We would be pleased to be part of this process, and in fact we insist on being there. Let us be clear that we do not believe there is any need to legislate reform regarding experience rating.

The current NEER experience rating system works well and it is the only tool employers have to ensure the assessment rates paid are in line with their actual accident experience for that year. In colloquial terms, if it ain't broke, don't try and fix it.

The MVMA strongly encourages the committee to recommend that experience rating be preserved as it currently stands. The entire business community will only be further alienated from the process of reforming the workers' compensation system if this program is tampered with.

Without elaborating on all the comments contained in our written submission, suffice it to say that the MVMA believes there are a host of reasons why Bill 165 must be withdrawn, or at the very least revised to totally reflect the context of the accord. There is a lack of support for the bill by the two workplace parties that must work under the auspices of any legislation.

That concludes our formal verbal presentation. As I said, we'd be pleased to field any questions of your members.

1530

**The Vice-Chair:** Again, we have time for just a brief comment. Mr Mahoney.

**Mr Mahoney:** Comment or question?

**The Vice-Chair:** A very brief question—if you want to respond.

**Mr Mahoney:** Because we've heard from government members and some presenters that you are the enemy creating the problem, I would like you to answer my question: Does business have an interest in reducing and eliminating accidents and illnesses that occur in the workplace, and do you have any interest in working with labour on an early-return-to-work program?

**Mr Nantais:** I think the answer to both those questions is an absolute yes.

**Mr Mahoney:** Can you expand as to what that interest would be?

**Mr Nantais:** I'm going to turn, if the committee permits, to the experts I brought with me.

**Mr Bruce Waechter:** We have an interest in both arenas, if I understood your question correctly. One is in the area of accident prevention and safety programs which have been immensely enhanced, and the other is in the rehabilitation and return of injured workers.

We have rehabilitation facilities at several of our locations. We have job placement committees. We modify jobs. We're constantly in touch with employees to get them back into work, into rehab and on suitable job placements.

**Mrs Witmer:** Thank you very much for your presentation. I appreciate the graphs. They simply are excellent as far as illustrating the points.

You indicate that the amendment made by the minister to the experience rating will not address the concerns you have. You indicate that as it stands, the motion would leave the experience rating open to subjective interpretations. What are some of the concerns you have with that as presently structured?

**Ms Rosemary McNamee:** I guess the major concern is that now experience rating under the NEER system is tracked by actual cost and experience, and what the board has actually done is devised factors that show what their expected costs are for your industry based on your past experience, and in order to achieve any positive results you have to better your experience with your claims during the current year.

What happens with the amendment is that you could be tracking your costs, be doing everything that you know possible to improve your cost experience, your frequency and severity and working with all the placement programs and modified work programs, and have it subjectively removed and, therefore, the initiative could go downhill at that point in time.

**Mrs Witmer:** And the predictability as well.

**Ms McNamee:** And the predictability. One of the possibilities when you are trying to marry actual cost experience to simply a frequency figure is that you could experience a higher frequency in smaller injuries that have not incurred costs, lost time or any undue hardship



to the employees, and that in itself could reduce your possible rebates, and that would not have had effect on the bottom line of the board finances or your return-to-work programs.

**Ms Murdock:** I just want to thank you. I know that many of your programs are similar to the ones a company in my riding, Inco, has introduced. It's imperative that management and labour work together. Your company and Inco, companies like that, that do that show it can work.

But your comments on the memorandum of understanding surprised me. In fact, I was somewhat disappointed that you would have commented on whether the government lacks confidence in the proposed bipartite board of directors when the memorandum of understanding, which has been in existence for a number of years, was strongly urged to be renewed and clarified by the Provincial Auditor when he was doing another review on another part of the Workers' Compensation Board.

The whole point of it, in the Provincial Auditor's remarks, was that he wanted it updated and he wanted that accountability stated emphatically and clearly in the memorandum of understanding so that even though the government, as we all know and previous governments know, is at arm's length from the Workers' Compensation Board, is supposed to be running the show without interference and legislation is how we handle things, there is still some reporting back to the Minister of Labour, whichever government of the day. So I'm surprised that you would see that as the ministry controlling the board of directors, and I wonder why you would make that comment.

**Mr Rick Thrasher:** I guess I'll take a stab at that one. The concern is that it was left open-ended, and our understanding of it was that it was subjective enough that it would leave the opportunity for the government in power to put in changes at the board, whether it be policy or administration, that allowed, then, the government in power to do that and avoid that arm's-length approach. That's where we had some exceptions to that. We liked the arm's-length approach. It has to be left out there on its own and administer its own policy.

**The Vice-Chair:** Mr Nantais, Ms McNamee, Mr Waechter and Mr Thrasher, thank you for taking the time out today and giving your presentation.

It's my understanding that the next presenters have cancelled because of circumstances out of their control and have been rescheduled, so I call forward the Ontario Nursing Home Association. Mr Offer.

**Mr Offer:** Very briefly, I wonder if the ministry staff in the next while can provide information as to whether under this particular legislation WCAT is subject to any financial responsibility section.

**Ms Murdock:** I'll make sure it's noted and that they can get that information.

**Mr Offer:** I hope you won't leave that until clause-by-clause. A lot of people are coming before this committee very greatly concerned about financial accountability, and financial accountability is found in some way, shape or form under section 12 of the legislation, but I

want to make certain that WCAT, which can also make very important decisions, is subject to the same type of confinements that are now found under section 12 of the legislation.

**Ms Murdock:** If I might, Mr Chair, it is already in the existing piece of legislation. If you look at that, the board of directors at the present time—

*Interjection.*

**Ms Murdock:** Yes, under the Workers' Compensation Act—control the budgetary requirements of the WCAT. Yes, it does.

**Mr Offer:** I would like to have legal counsel from the ministry provide the financial accountability of WCAT as soon as possible.

**The Vice-Chair:** Thank you, Mr Offer.

ONTARIO NURSING HOME ASSOCIATION

**Mr David Cutler:** I'm David Cutler. I'm one of the representatives from the Ontario Nursing Home Association. I do assist them on the labour relations side at their committee. I do also work for a private employer, Leisureworld Inc.

**Ms Shelly Jamieson:** My name is Shelly Jamieson. I'm the executive director of the Ontario Nursing Home Association. We were originally on a waiting list to be put into one of your time slots, so we did send 25 copies of our proposal at that time and were assured they would be here today. Unfortunately, I understand they're not, but they're here somewhere. We're extrapolating some of the points from our presentation but not covering the entire presentation in the 20 minutes.

The Ontario Nursing Home Association was founded in 1959, and the ONHA's membership of 296 homes is split into eight regions across Ontario. We represent close to 90% of the province's nursing home beds. Member homes accommodate over 27,000 seniors, making them a key element in long-term care facilities in Ontario. Member homes also employ in excess of 27,000 people, 95% of whom are female and the majority of whom are unionized.

**Mr Cutler:** I'm going to present part of this and then Shelly will do the remainder. We accept that WCB was founded on the four principles of no fault, statutory benefits, collective liability throughout all businesses in Ontario and independent administration, and those were four very good principles on which the WCB itself was founded. We feel, however, that the independent administration is being eroded by the proposed Bill 165.

Also of critical importance is the financial viability of the system. We feel that Bill 165 should provide for financial integrity, but unfortunately the proposed changes in that bill will not only be insufficient to resolve the problems at WCB but they will force increased problems in relation to the inability to fund the unfunded liability. The predictions are that by the year 2014, this liability could be as high as \$50 billion. Just in today's Globe and Mail, page 2 of section B, we see that in the first six months of 1994, the unfunded liability increased by \$181 million.



What I have to say about that is, in private business, in any business enterprise, when that business runs out of money, the plug is eventually pulled. What's happening here is there's just an additional burden being created on employers, and eventually those purse-strings are going to snap. So this is a very serious issue.

The rates which Ontario experiences in the premium paid to WCB, being \$3.16 per \$100 of payroll, are the highest in all of Canada. Ontario is also responsible for 70.25% of the accumulated \$15.8-billion debt, yet Ontario workers make up only 39% of the Canadian workforce. Ontario has exceeded all other provinces in benefits paid per lost time claimed; in other words, \$23,500 per loss claim, compared to the second province, New Brunswick, of \$14,900.

Why is this? Again, we see an expansion of the types of claims and the compensation being paid out on the differing claims and the duration. The lost-time claims have actually decreased, from a level of \$208,500 in 1988 to \$136,900 in 1992, a significant drop, so why are our premiums going up? Because we continually support extended claims, the length, and are now even considering introducing the admission of stress.

The unfunded liability, the first concern: A grave concern is that the bill fails to deal with this unfunded liability in such a way that it will be decreasing and not increasing, as is evidenced by today's report in the *Globe and Mail*. The bill doesn't propose to reduce the debt. The plan of action put forward by the Premier's Labour-Management Advisory Committee, business caucus, to reduce and eventually completely eliminate the unfunded liability was ignored.

The figures show that if WCB carries on at the rate it is presently, there'll be no money left by the year 2005. Other provinces have led by example—not all of them, but some of them: New Brunswick, Manitoba, Newfoundland—by taking successful action to reduce this liability. Ontario needs to do the same.

Bill 165 also proposes the Friedland formula for most claims. The adoption of the Friedland formula should have been applied to all WCB cases, but the government is planning to exempt 40,000 persons from the application of that formula, and further increase their benefits by another \$200 per month. Why?

Business for the last 10 years has accepted a long-term funding strategy to reduce this liability to zero by the year 2014. However, Bill 165 sets out a target date of \$13 billion for the year 2014. To enhance the credibility of WCB, planned savings must be real, measurable, and not only just speculative. The public must be able to see that WCB is financially sustainable.

The board itself has taken little initiative in decreasing costs. This is evidenced by their decision to build a new building, for example, downtown, when close to 20% of office space was vacant. This shows a lack of financial responsibility. Really, what WCB needs is accountability, because what's happening is they have an open end to just increasing rates and drawing on the business sector to fund and finance them. As long as you simply open the purse and pay, things cannot improve.

We really need to look at getting some true business-men and entrepreneurs involved so that suitable action can be taken to bring this liability down. The government itself tried to show some initiative in implementing the social contract, ways of trying to save money, realizing the debt that was facing Ontario. It's time that WCB did the same.

The proposed admission of new claims such as stress is just awesome. It just is going to open the floodgates. This type of action causes stress to employers and to their purse-strings.

We recommend that the business proposal to reduce the unfunded liability to zero by 2014 be adopted in its entirety. Otherwise, if you take what happened to Confederation Life, it's going to happen a lot sooner to WCB. It's better to give those who are entitled to compensation a little less at the moment and remain in business and be able to support them than to give them zero in five years' time.

Just on the governance aspect, Bill 165 proposes to establish a new bipartite WCB board of directors with equal representation from labour and management. Bipartism has produced partisan control and political interference. Bipartism has not resulted in quality management and fiscal soundness.

The history of the Workplace Health and Safety Agency has shown that bipartism does not work. Bipartism at the agency has resulted in a strong element of partisan control over health and safety issues and ineffective, unfair management practices. A lot of it has been dictatorial, such as exactly where people will receive their core certification and their training. It's been dictated; it's not been negotiated.

We feel there was no justification for the destruction of the other health and safety agencies, the delivery organizations. The action has resulted in taxation without representation. In other words, sectors continue to pay into WCB with no corresponding education or training support. In addition, we're being asked to increase our workplace occupational health and safety initiatives with diminishing resources.

Labour represents only those workers who are organized. Bipartism fails to represent all workers. WCB needs a non-partisan, balanced management approach which includes representation from other stakeholders, such as possibly physicians, injured employees. We would support the model suggested by Steve Mahoney in his document, *Back to the Future*. We also support the inclusion of public representatives, as long as they are non-partisan. It is advantageous to have some health service representatives with expertise in occupational health and safety issues on the board of directors.

Section 65.1 gives the government unprecedented political control over the policy direction of WCB. After proclamation, the Ministry of Labour will assume complete control of WCB policy. This would indicate that it will become a branch of government. The board would be powerless. One would question the validity of having a board during this one-year period. We recommend that WCB have a non-partisan board of directors and that section 65.1 be deleted in its entirety.

**Ms Jamieson:** Relative to the purpose clause, I'll be brief in summarizing that we supported PLMAC's recommendations, but we feel the adoption of only partial sections of the business caucus's purpose clause has in fact negated the intent of the recommendations. To accept half of the equation without the balance of financial responsibility is to create inequities that will have a far-reaching and negative impact on business viability in Ontario.

The purpose clause as it is now written in Bill 165 does not ensure the competitiveness of Ontario business. It does not require financial responsibility and accountability and it does not ensure the financial integrity of the system. There is no recognition of the employer's role in the system. What it does, however, is compel WCB to expand entitlement even if job loss results.

1550

An example of this is the payment of stress claims, which David referred to earlier. If medical science supports the payment of stress, then WCB would be forced to pay for these types of claims regardless of the financial consequences. The Employers' Council on Workers' Compensation has estimated that even a limited entitlement policy on stress would cost upwards of \$180 million per year. We recommend that the government adopt the purpose clause as set out in the business proposal.

Regarding re-employment regulations, WCB has basically been given the power to review on its own initiative whether an employer has fulfilled its re-employment obligation, and it can levy a penalty under existing provisions of the act. Therefore, there needs to be no evidence of non-compliance or even a problem before an investigation is started. These are intrusive and interventionist powers and are unjustified. They're costly and they serve no real purpose. Is there non-compliance within current reinstatement obligations to warrant such changes? If so, where is the evidence or data to support this non-compliance?

Our recommendations are that subsection 54(11.1) be removed and that the powers of the WCB be maintained at the current level and not enhanced.

Regarding worker benefits, the bill proposes that WCB will be required to ensure that developments in health sciences and related disciplines are reflected in the benefits and services and programs policies offered. We believe criteria must be developed with a process involving medical and scientific community input. This proposed section of the act is much too broad and would not allow for consultation. We propose that the entitlement not be further expanded.

Relative to experience rating, we are proposing that the experience rating system remain as it is. The PLMAC business caucus indicated that "Experience rating has been an unqualified success and has achieved its primary goals of reducing the frequency and severity of workplace injury and enhancing the level of individual liability."

Why then is there an attempt to get rid of one of the few successful WCB initiatives? Bill 165 will repeal the current sections of the act allowing experience rating,

thereby possibly eliminating refunds and increasing surcharges through purely subjective investigations based on unmeasurable indicators.

There were some areas omitted in the bill that we'd just like to touch on and they're in detail in our brief. We believe that the WCB reform has overlooked the role and impact of the physician in the decision-making process. We believe that one problem in the system is that the most inexperienced person in the entire workers' compensation system, and I'm referring to the adjudicator, makes the most important decisions. All adjudicators much have specialized training and experience to understand the complexity of the issues they're dealing with.

We believe that compensation for strains and sprains must be modified, that it should recognize other factors such as aging and body condition. We think it must be acknowledged that there is fraud and abuse in the system and action must be taken to control it. There's a need to review FEL and NEL awards and develop strategies to decrease costs. We believe that the term "accident" must be redefined to ensure that the work setting is the dominant factor in the injury.

Finally, we believe that the management of claims and the WCB service delivery system must be improved.

**Mr Cutler:** Just in conclusion, if we go back to the founding principles that I recited at the beginning, WCB is an insurance program and is not a universal compensation system, which it appears to be being used as at present.

The system should provide protection for business from lawsuits from injured workers and it should provide protection for injured workers from losing their income. However, we need to adopt three new principles: a competitive system with balanced inputs and outputs and fiscal soundness.

Bill 165, in summary, appears to be one-sided in its approach. The demands of labour, increased coverage, increased entitlement, increased benefits, are included with no corresponding recognition of the needs of business. A balancing of the needs of both labour and management must be built into any WCB reform.

The ONHA supports a workers' compensation system that provides fair compensation and prompt treatment of injured workers. However, WCB is in a critical situation and serious steps need to be taken to make the system financially viable soon. WCB reform must support a fundamental change in how they conduct their business. They need to be accountable.

Bill 165 should be withdrawn and a new bill should be developed based on these principles as identified above and the recommendations outlined.

**The Vice-Chair:** Brief comments or questions?

**Mr Mahoney:** Just a question, and I know in 20 minutes you can't get everything in, but your industry has very specific requirements around health and safety training. Can you tell me how you feel about sector-specific training, obviously to try to reduce accidents and to train all of your staff? Are you getting anywhere with the agency, or do you have any suggestions on that?

**Mr Cutler:** We have very definite requirements and



very specific needs. We can't even get to first base with the agency or with the HSDOs, the health service delivery organizations. We've had people certified as trainers, but labour won't recognize them and authorize their members to undergo the training through certified trainers who have been trained through the agencies and the health service delivery organizations.

We tried to get off first base with just course certification. We can't do that. As far as sector-specific training goes, we've got a whole committee trying to meet, has had input. Input's been ignored. They've got back a response from the agency ignoring everything.

For example, in nursing homes or long-term care facilities or homes for the aged, we don't need a course on how to drive a fork-lift truck or about mining, yet that's a section that is mandatory and is being ignored. The result is that we will have to have three weeks of course certification and another three weeks of sector-specific, dealing mainly with the mining industry in health care.

**Mr Mahoney:** At a cost of tens of thousands of dollars too, I'm sure.

**Mrs Witmer:** Thank you very much for your presentation. I guess we will eventually get it and we'll be able to take another look at it. You talked about the fact that the role of the physician was not dealt with within this paper. What type of changes would you have liked to see within the document? How should that have been addressed?

**Mr Cutler:** The physicians have a lot of knowledge as to length, duration, rehabilitation etc. We're saying it might be necessary to bring them and make them more involved and add the input to the board, and they might be able to give direction in that regard.

**Mrs Witmer:** Yesterday we had the physiotherapists in here and they were somewhat concerned that the doctors were always the gatekeepers and sometimes the treatment didn't take place quite as quickly because the other health care providers didn't have access to the system. They felt there was a need to take a look at the whole structure.

**Ms Jamieson:** Probably some kind of holistic approach to that is a good idea, of experts who do these assessments and determine what we can expect in terms of recoveries.

**The Vice-Chair:** Thank you. Ms Murdock?

**Ms Murdock:** No; Mr Ferguson.

**The Vice-Chair:** Mr Hope? Oh, Mr Ferguson. Sorry.

**Mr Ferguson:** Thank you very much. Three strikes and you're out. You're almost there.

Thank you very much for attending the committee today. You've enlightened us with your presentation. A lot of the presenters who have indicated that they don't particularly support the bill have really skirted the issue surrounding the financing of the board.

Could you tell me whether you would support or whether you're advocating reduction of the level of benefits? Do you think the level of benefits ought to remain at 90%, or should that be reduced?

**Mr Cutler:** I think in my presentation I said that we should reduce the benefits. I used the example of getting the benefits as they are for the next five years and nothing thereafter, because that's where we're heading. I think the benefit reduction is very relevant and should happen immediately so that the system could last a lot longer.

**Mr Ferguson:** Just one other very quick question. Were you aware that the average rate of assessment per \$100 per payroll today in 1994 is actually less than it was six years ago?

**Ms Jamieson:** The average rate?

**Mr Cutler:** Is that average across the country or the province?

**Mr Ferguson:** That's the province of Ontario.

**Mr Cutler:** Across all industry?

**Mr Ferguson:** Yes, the average rate of assessment per \$100 of payroll today is less than it was six years ago. Were you aware of that?

**Mr Cutler:** No, I wasn't, but there must be more employers, so there's more revenue going into the pot and there's a lot more being paid out, obviously.

**The Vice-Chair:** Ms Jamieson, Mr Cutler, thank you for your presentation today.

**Ms Jamieson:** Thank you very much. We wish you luck in your endeavour.

**Mr Mahoney:** Thanks for the commercial on Back to the Future too.

**The Vice-Chair:** I assure you that that once your presentation is supplied by the clerk, it will be distributed to the committee members.

**Ms Jamieson:** If you can't locate it, we'd be happy to provide more, but we did provide them.

1600

#### EMPLOYERS' ADVOCACY COUNCIL

**Mr Ron Calhoun:** Good afternoon, ladies and gentlemen. My name is Ron Calhoun and I am the provincial chair of the Employers' Advocacy Council, known as the EAC. We would like to thank the committee for this opportunity to present our views on the proposed Bill 165.

With me today are Stephen Cryne to my left; Steve serves as our executive director. To my right is Sherri Helms; Sherri is our provincial vice-chair. To Sherri's left is Ron Kerr, who is the chair of our policy committee. I might point out also that other members of the EAC sit in the audience behind me. We'd like to thank you, the committee, for this opportunity to present our views, as stated before.

A bit about the EAC: We are a non-profit volunteer organization of employers across Ontario and our mandate is to effect constructive change to the workers' compensation system and to educate employers on all aspects of workers' compensation issues.

With over 1,700 members across Ontario, the EAC represents a broad cross-section of Ontario's diverse economy. We are located in nine centres, with nine chapters throughout the province, and our members



include both the small and very large employers. We also have many public sector employers and employers from schedule 2.

Since 1985 the EAC has been representing the views and concerns of the employer community, calling for constructive reform of Ontario's workers' compensation system. Over the past year and a half the EAC has played a key role in supporting the PLMAC process and in the development of the employer proposals for workers' compensation reform.

Although the business community expended thousands of hours to develop constructive solutions to the major problems that exist in the system, it is our view that the government has failed to respond to those recommendations. The EAC was a member of the business caucus that reached the accord with labour representatives in March 1994 and, although support for that agreement was not unanimous on either side, there however was a consensus agreement that we were fully prepared to support.

We are profoundly disappointed now that the government has chosen to ignore the accord in favour of a package of reforms which more closely resembles its own agenda and that of the labour community. Very simply, Bill 165 is not the accord that business and labour agreed to.

The EAC does not support Bill 165 and we fully endorse the submission made to this committee by the business steering committee of the PLMAC opposing the bill.

We believe that Bill 165 will only add to the existing problems and increase the overall cost of the system. As written, Bill 165 will not satisfy the Premier's objective when he requested business and labour, under the auspices of the PLMAC, to review the problems of the workers' compensation system and to work together to produce a new system which will pay workers fairly and meet the test of being financially sound.

I'm going to call on Stephen Cryne now to touch on nine of our major concerns, in a summary of our concerns with the bill.

**Mr Steve Cryne:** I'd like to begin with the unfunded liability. The EAC is not seeking an immediate elimination of the unfunded liability; what we are seeking is a comprehensive plan to retire the unfunded liability in keeping with the spirit of the accord reached between the business and labour communities earlier this year.

Having attended a couple of the hearings over the last two days, it seems that the committee has been presented with some distorted information about the unfunded liability and employer assessment rates over the last few years, but here are some facts about Ontario's unfunded liability and the assessment rates.

The unfunded liability in Ontario is two and a half times greater than all of the other provinces combined. It's increased from just over \$2 billion in 1983 to today's \$11.7 billion and it's currently growing at the rate of \$1 million a day.

Since 1989, the amount of assessments collected from employers earmarked for retiring the unfunded liability

has increased by 57%. New employers opening up businesses in this province pay an average of 28% of their premiums towards a debt that they had no part in creating.

Between 1990 and 1992, permanent job losses left behind a staggering \$1.5-billion unfunded liability. The impact of that cannot be ignored. Very simply, that \$1.5 billion is now being shouldered by far fewer employers.

Under Bill 165, the unfunded liability increases from its current level of \$11.7 billion to a conservative estimate of just over \$13 billion. Since 1980, assessment rates in this province have increased almost 200%, compounded by similar increases in the earnings ceiling. That's something you've not heard about in your hearings so far, I believe.

Ontario has the second-highest assessment rate in Canada, second only to Newfoundland, yet our accident frequency has declined by 31% in Ontario.

The unfunded liability is very real. It's not just a number on a piece of paper. It must one day be retired. Not addressing the issue today only perpetuates the problem and unduly burdens employers of tomorrow, jeopardizing future benefits to workers.

Specifically turning to the bill itself, the purpose clause, section 1: This was the cornerstone of the accord between business and labour, but as drafted the purposes of the act in our view will favour the workers' side of the equation exclusively. While the purposes outlined are important principles, they are principles nevertheless that are present in the current system. Whether the WCB is effective in living up to or delivering on those principles is another matter altogether.

The purposes of the act must recognize the critical need for financial considerations. When introduced 80 years ago, the act was intended as a no-fault insurance program that was an affordable and economically viable alternative to the tort system for the benefit of both workers and employers. This fundamental principle is not reflected in Bill 165, even though that was the spirit under which the financial responsibility framework was reached in the accord.

The proposed purpose clause will not restore financial accountability or security of the system. It will not balance the inputs and outputs. Cost implications will not necessarily be a consideration when determining future benefit levels or entitlements. It does not impose a financially responsible framework for decision-making and operation of the system. It does not put ultimate accountability for the system on government, all of which were elements contained in the accord between business and labour.

The bill imposes a responsibility upon the board of directors to carry out its duties in a financially responsible and accountable manner and to reflect changes to the WCB's policies in a manner that is consistent with the purposes of this act. Financial considerations are not one of those purposes.

1610

The report on return to work, section 8: Very simply, this will add yet one more encumbrance on employers

who are trying to return workers into the workplace. There are no penalties on workers who fail to provide the return-to-work information and use the consent issue as a shield to extend the period of absence from work. While workers may lose benefits for non-cooperation in vocational rehabilitation programs, that provision of the statute does not apply to section 8 of the bill. This will become a further issue over which conflicts and disagreements will arise, to the benefit of nobody in this system.

In order for employers to effectively return workers to safe and meaningful employment, employers need the tools. Return-to-work information is fundamental to that process. If the government was serious about improving return-to-work opportunities, the worker's consent should not be necessary in the disclosure of information pertaining to the worker's capability and return-to-work status.

Vocational rehabilitation, section 9: In 1993, the WCB spent \$753 million on rehabilitation for about 26,000 workers, an increase of 34% over 1992. Employers are concerned, and rightly so, that rehabilitation from WCB is not effective, and in many instances they spend large amounts on internal rehabilitation programs themselves.

As noted in the report of the chair's task force on vocational rehab and service delivery, there is a definite lack of focus and the WCB does not have a clear mission statement for vocational rehabilitation. That report also said that the solutions lay in partnerships with employers to build successful modified work programs. The chair's task force was another bipartite report, if you remember. It called for outreach and educational programs that encourage and promote retraining with the accident employer. As employers, we are of the opinion that little, if anything, has improved since that report was filed.

Obstacles to re-employment and rehabilitation cited by employers are:

- Excessive legal bureaucratic hurdles that delay the return-to-work process.

- Concerns about medical confidentiality as it pertains to return-to-work information.

- Quality and availability of WCB services.

- Disparities in availability of services for medical and vocational assessment centres and work conditioning facilities and services.

Bill 165 has done nothing to address these problems. The proposed penalties on employers will be one more issue over which conflicts and disputes are bound to arise. Penalties aren't the solution. Education and proactive cooperative measures are the key to effective rehabilitation and return to work. Injured workers will come before this committee and say to you, "We only want to go back to work." We are appearing before you representing our constituency and telling you that employers want their employees to return to work. What we need are the tools to do it. Bill 165 is not giving us those tools.

Re-employment, section 10: The proposed changes to the re-employment provisions are arbitrary and provide the WCB with an authority which we believe is unnecessary. As proposed, the WCB will have the authority to make a determination whether the employer has breached

the re-employment obligation even where the worker may not be interested in returning to the employment and, in many cases, where entitlement is still in question. The resources of the WCB would be far better utilized to assist employers in developing return-to-work programs rather than policing this system. We view the penalties suggested in Bill 165 to be regressive.

The board of directors, section 11: Any confidence that we held for an effective bipartite model of governance has evaporated with developments over the past four months. It is our opinion that in the absence of a purpose clause which includes the financial responsibility framework as a purpose of the act and holds government ultimately accountable for the system, the proposed bipartite model of governance will be a failure.

Policy directions, section 16: This endowed power undermines the very principle of independent administration that Meredith prescribed some 80 years ago. At the same time, it jeopardizes the success of a truly arm's-length relationship between government and the WCB. Equally concerning is the fact that the requirement on the board of directors to act in a financially accountable manner does not apply to the government during this time.

Mediation under section 21: It's our opinion that the objectivity of adjudication and decision-making will be severely undermined by this proposal.

Experience rating, section 28: Very simply, experience rating must continue in its current form. It has proven to be an unqualified success in Ontario. It had reduced accident frequency by 30% by 1988. I may remind committee members that frequency measures accidents relative to man-hours worked, thereby allowing for the impact of the recession.

Experience rating programs also measure duration in determining a refund or a surcharge. Additionally, with the introduction of more rate groups into the NEER system in the past few years, the powerful impact of experience rating is now evident by the drop in average duration in short-term claims from 16 to 12 weeks, which the Minister of Labour referred to in his remarks to this committee on August 22, 1994.

Experience rating is working. Introducing the components of process will significantly and fundamentally alter the current structure of these programs that are continuing to show success. Workers will argue that NEER promotes the hiding of claims. We suggest that it's quite the opposite and that the penalties under the Provincial Offences Act for non-reporting of accidents, which can be as high as \$25,000, act as a sufficient deterrent. We encourage the WCB to aggressively pursue employers who flagrantly abuse and ignore the law.

Equally, there are sufficient remedies open to the government to enforce the health and safety laws of this province. There's absolutely no reason to try to duplicate that power under the Workers' Compensation Act. The current experience programs, in our view, achieve the objectives of distributing costs fairly among employers, reducing injuries and occupational diseases, and promoting vocational rehabilitation and encouraging return to work.



**Mr Calhoun:** In conclusion, ladies and gentlemen, we'd like to leave seven concerns with you: Bill 165 will not retire the unfunded liability and the future security of both workers and employers continues to be at risk. It will not restore equity and fairness. It will not restore accountability or financial responsibility to the system. It will not improve vocational rehabilitation or return-to-work programs. On the contrary, it will be the source of many more disputes in the system. It will not improve service delivery, efficiency or effectiveness of the WCB programs; in fact, quite the opposite. It undermines the principle of an independent administrative body. It introduces more bureaucracy and red tape without improving effectiveness.

For these reasons, we believe that there is no alternative but to withdraw Bill 165 and return to the proposals presented by the business community to the Premier last November. The employer proposals, if followed, would have virtually eliminated the unfunded liability, secured future benefit payments, improved vocational rehabilitation and placed the system on a secure footing while improving the climate for business investment in Ontario.

Finally, it is our belief that solving the crisis in the WCB system will require very difficult and unpopular decisions. Those decisions should be based on reality and not political reasons.

**The Vice-Chair:** One minute, Mr Mahoney.

**Mr Mahoney:** We've had it suggested, just on your point on the unfunded liability, that it's not a problem because the \$13 billion that everyone is referring to will be in 2014 dollars. The logic, I think, is that if you extrapolate that, it'll sort of disappear by itself because related to 1984 dollars it won't be a lot of money; in 20 years \$13 billion won't matter.

The other thing, of course, is that unless major changes occur in the way we do business at the WCB, that \$13 billion, which was arrived at as a result of some prognostication on the part of some people as to how inflation would behave over the next 20 years—they must have a crystal ball that I've never seen—could be \$20 billion, \$25 billion, \$30 billion; it could be anything, depending on that. Who knows? I just wonder if you have a comment about the 2014 dollars that magically make the unfunded liability unimportant and about the growth.

**Mr Cryne:** All I can say in response to that is that the PLMAC project predicted that the unfunded liability, without any changes, would be \$31 billion by the year 2014. The WCB, in 1989, predicted that the unfunded liability would be retired seven years earlier: by 2007 it would be zero.

1620

The idea here is that the dollars are real. At some point we have a liability out there. At some point it has to be paid off. Just exactly where that liability is going to end up, I think you're right, is a matter of speculation. I think the issue of 1994 versus 2014 dollars is a red herring, and I would not pursue it.

**Mrs Witmer:** Just pursuing the unfunded liability theme, we've heard from the labour unions when they

come in here that the unfunded liability really isn't important; it doesn't have to be paid off. What is your response to that?

**Mr Cryne:** I think you just have to go back to what happened in November and see what the bond raters of this province did when they started to look at the fact that we have an unfunded liability, and that unfunded liability is starting to impact on the credit rating. It was a fact the Dominion Bond Rating Service took into consideration.

The other thing I would remind the committee is that the WCB had not only an unfunded liability, but it also had cash-flow problems last year, it's likely to have cash-flow problems again this year, and at some point in time the cheques are going to start bouncing. I don't think anybody in this province wants to see that. It's not good for employers and it's certainly not good for workers.

**Ms Murdock:** Good to see you again, Stephen. The whole issue, from both sides actually, because I disagree with the comment made by Mrs Witmer that labour is seeing the unfunded liability as not a major issue—they recognize the fact, like you have stated, that something has to be done and that we can't continue in this vein. I think everybody agrees on that. There hasn't been anyone who has said that they're satisfied with how the system is working and the costs incurred by it.

But I get a sense from particularly the employer groups, more so than any of the other stakeholders who have come before here, that everybody in the Workers' Compensation Board, which is separate from the government—I don't think that distinction is being made often enough—should be asking, "Can the system afford it?" before any decision is made. Is that what you're saying?

**Mr Cryne:** Mm-hmm.

**Ms Murdock:** Because if your answer is yes, what you're asking then is for the claims adjudicator, at the first stage, when the employer is reporting the accident or the worker is putting in the claim—you're saying that the claims adjudicator, a first-line employee, instead of saying, "Is this work-related?" which is what should be the question, I think, has to ask the question, "Can the system afford it?" I don't think that's the intent of the whole Workers' Compensation Act.

**Mr Cryne:** That's not the intent of the proposal we've made where we say the inputs must balance outputs, and that's why it's important that you understand that the ultimate responsibility for this program is on the government to determine the scope of that program and to make alterations to the scope of that program, because the decisions that are made within that program have far-reaching implications beyond just simply allowing one claim. One claim is the thin edge of the wedge. For example, if we're to have stress in this province, the argument that we made on that issue is that that is a decision the Legislature should be required to make, not a bipartite board of directors, not an agency of the government. That's a copout on the government's part.

**Ms Murdock:** But you're saying—

**The Vice-Chair:** Thank you, Ms Murdock.

**Ms Murdock:** —it becomes political instead of work-related.



**The Vice-Chair:** On behalf of this committee, I'd like to thank the Employers' Advocacy Council for coming today and giving us their presentation.

#### INDUSTRIAL DISEASE STANDARDS PANEL

**Ms Nicki Carlan:** My name is Nicki Carlan and I chair the Industrial Disease Standards Panel. I have brought today with me John Macnamara, who is an employer representative who sits on the panel, and Bob DeMatteo, who is a representative of labour on the panel.

I will be speaking today on behalf of the entire Industrial Disease Standards Panel, and I may be in a unique position for this committee because I will be bringing to you a consensus of the members of the Industrial Disease Standards Panel, who represent management, labour, science, medicine, law and the general public. My comments have received the endorsement of the entire panel, so this is something extraordinary for you, I think, today.

I intend to explain what we do and why there was a need for the establishment of our agency. Finally, I'll explain why we are recommending that the amendment proposed in subsection 24(2) of Bill 165 be significantly modified.

Mr Macnamara and Mr DeMatteo will have a few comments after I've finished my presentation and, following that, we would be happy to answer any of your questions.

Our task or the job of the Industrial Disease Standards Panel is set out in section 95 of the Workers' Compensation Act. We are mandated to investigate possible occupational diseases, identify probable connections between disease and work in the appropriate circumstances and provide advice to the Workers' Compensation Board for the adjudication of WCB claims. Our recommendations are made to the corporate board of the WCB, which has the power to accept or reject any of our recommendations.

We are currently investigating the role gold mining plays in the development of stomach cancer, assessing the reliability of the board's current policies on noise-induced hearing loss and considering the possible occupational sources of chronic obstructive lung disease.

I've asked the clerk to distribute, and I see that she's done that, our most recent annual report. If you have time, you can flip through it and you'll be able to identify all of our current projects.

Workers who suffer from occupational diseases are entitled to workers' compensation benefits. However, the difficulties in assessing the relationship between work and disease have often resulted in a long and difficult adjudicative process. These difficulties inherent in the recognition of disease claims were addressed in the 1983 Weiler report, and those difficulties have continued to date.

For instance, in 1961 the Workers' Compensation Board recognized nasal cancer as an industrial disease that was associated with certain workplaces, but it was not until 1993, more than 30 years later, that the board added this disease to schedule 3 and schedule 4 of the act.

Generally, the board has been slow to add diseases to the schedules, another indicator of the WCB's reluctance to deal with disease issues. In the case of schedule 3, the board has done very little within the last 40 years to make amendments. If you refer to appendix 2 in our submission, which you also have a copy of, you will see what has changed in the schedule in the last 40 years. As a result of these decades of inaction, Ontario has fallen far behind other jurisdictions in the compensation of industrial disease.

Occupational disease adjudication has been discussed significantly during the preceding 20 years by three distinct royal commissions established by governments and a task force. Specifically, there was the Royal Commission on the Health and Safety of Workers in Mines, the Royal Commission on Matters of Health and Safety Arising from the Use of Asbestos in Ontario, the Weiler commission, and the Minister of Labour's occupational disease task force.

Each of these commissions independently came to the same conclusion: There was a need for a body independent of the WCB to research occupational disease and to provide independent advice to the board for the compensation of claims.

To deal with this issue specifically, Professor Weiler recommended the creation of the Industrial Disease Standards Panel. He saw the need for a body that would be independent of the board and would conduct publicly accessible investigations into disease issues.

In 1985, when the legislation was introduced to establish the IDSP, the Honourable Russell Ramsay, the then Minister of Labour, made the following remarks:

"A question was also raised about the functions of the Industrial Disease Standards Panel and the mechanisms for referring matters for its consideration. I know that, at the time, I indicated my own interest in referring issues to the panel once it is formed. However, I do not believe the panel should be required to address itself to all matters referred to it by the minister, by the board or by any other person.

"Rather, as an independent body, it should set its own agenda taking into account representations that may be made to it from any source and the resources it has at its disposal to address such issues. To clarify that the panel has this prerogative, I propose to amend the subsection dealing with the determination of the practice and procedure of the panel to include reference to the fact that the panel should also determine its own priorities."

That amendment was adopted and accepted.

#### 1630

The panel has taken on its work assuming that the government continues to be committed to the need for an independent body to provide advice to the board on occupational disease. However, during the last three years we had an ongoing struggle with the government to achieve and maintain that independence. We are concerned that the amendment proposed by the government would not provide the panel with any independence but would only make us subservient to another master, the WCB. This amendment, in our view, would defeat the

original intent of the legislation. The panel is convinced that the government's amendment is further flawed because it does not provide for adequate funding. For there to be real independence, there must be the resources or funding to allow the panel to realize its independence. In fact, the notion of adequate funding was raised in response to the report on health and safety of workers in mines by Floyd Laughren in 1976. At that time he made the following comments to the Legislature:

"Much research needs to be done in the preventive aspects of occupational health. The exposure of workers to carcinogens and other toxic substances is increasing and in some cases we do not yet know the extent of the danger or the safe levels. There has been debate in this House on what are acceptable levels of different carcinogens but some of them we don't even know yet, I suspect, that they are carcinogens. The long incubation period of many diseases such as cancer, silicosis and asbestosis poses a particular problem as well. I think we must move more aggressively from counting the fatalities after the fact to preventing them from occurring in the first place.

"I believe the problem is of sufficient importance to establish a separate ministry with substantial funding...."

Those are the words of the current Treasurer.

To fulfil our mandate, we must undertake thorough investigations of all the available scientific evidence. All of our policy recommendations are firmly grounded in current scientific data. To gather that information, we rely heavily on the assistance of consultants external to the government, with specific expertise in a variety of very specialized areas. The work must be thorough and unbiased and must be able to withstand the scrutiny of scientific experts retained by labour and management. As you may expect, this is an expensive undertaking.

We are careful when extending contracts for this type of work because investigations could be limitless. While we describe our approach as "careful," Dr Warner from Inco recently described us as "parsimonious."

Concerns about financial limits being placed on this type of work have also been articulated by the Ontario Mining Association. In response to a recent review on stomach cancer, the OMA wrote:

"In the issue of stomach cancer, the panel asked for a literature review but set a limit of 40 hours of consulting time. The conclusions show that further research is necessary before a decision involving the transfer of millions of dollars is made."

Even when we take great care about the expenditure of resources, we have issues that will not make it to our agenda for a couple of years. For example, right now we don't have the resources to look at the health effects of electromagnetic fields or antineoplastic drugs. Without the funding to complete the programs that it has agreed to, the panel has no independence. It is for this reason that we are proposing an amendment that would provide the panel with an increased and firm budget.

Of course, we recognize there are limits to all resources and there will always be a need to prioritize our work. However, it is important to be mindful of the

actual limits of our current resources. Today our operating budget for the largest industrial province in this country is \$1 million. The substantial increase referred to by the minister in his opening statement would increase our operating budget from \$1 million to \$1.5 million, with a floor of \$1.5 million and a ceiling of \$3 million. The panel submits that in order to be able to perform its work, it requires a different amendment. The full text of the proposed amendment is in our written submission.

Succinctly put, we are asking for a commitment of not less than 0.5% of the board's operating budget, with the ability to increase our expenditures with the approval of the entire panel to a maximum of 1% of the operating budget. We believe there should be no interference on how we prioritize our expenditures within the limits of the defined budget by either the government or the board. Of course, we intend to be guided by the administrative rules set out for expenditures of the accident fund money.

This mechanism for funding has been described as novel. I would submit to you that it was proposed over 20 years ago by the commissioners who examined the health of workers in mines. At that time, in 1976, the commission made the following statement:

"The commission considers there to have been far too little research on health and safety of workers in mines in Ontario. The excellent epidemiological studies by the Ministry of Health have been conducted in response to major emergent problems. The occupational health protection branch has not had the resources to carry out exploratory research designed to assess the likelihood of there being problems. Research on the statistics of accidents, such as that conducted by the commission, has been non-existent. It is imperative that this situation change. The commission proposes that the government fund research at an annual level of 1.5% of the direct annual costs of workmen's compensation for accidents and industrial disease in the mining industry. The direct costs of such compensation are currently about 6% of gross wages, which total about \$400 million. Thus compensation costs about \$25 million per annum, and 1.5% of this sum is \$375,000." This proposal was made in 1976.

"In addition to a general commitment by the government to research on health and safety in mines it is important that the joint health and safety committees have a direct means of initiating studies of common pragmatic concern."

In closing, I would just like to indicate that I am privileged to have been working with representatives of labour and management, science and the rest of the community who come to our table with an open mind. When I meet with my colleagues for two days every month there is often heated and vigorous debate, but the goal is always to achieve the right answer. We have made recommendations that have favoured both labour and management, and because of the good faith that everyone brings to the table, we have been able to achieve consensus.

I'm not so naïve as to assume that there will not be dissent in the future, but I am confident that these dissents will be based on honest disagreement about the



evidence and not political posturing. As Ms Murdock stated yesterday, the purpose of Bill 165 is to correct that which can be corrected now. The status of the IDSP can be dealt with now.

I hope that you can endorse the amendment that we've set on the first page of our amendments so that we can get on with the work that we have been asked to do. Because of time constraints I certainly limited my remarks and I would hope that you would have time to read our submission in total. Thank you.

**The Acting Chair (Mr Daniel Waters):** Thank you for your submission. We have about two minutes per caucus.

**Mr Mahoney:** Could I have some help as to where the amendment is that you referred to?

**Ms Carlan:** In the submission?

**Mr Mahoney:** Yes.

**Ms Murdock:** At the bottom of the first and the top of the second page.

**Mr Mahoney:** I think somebody else wanted to speak.

**Ms Carlan:** Bob, did you have a few comments?

**Mr Bob DeMatteo:** Yes, I'd just like to make a few points.

First of all, let me say that labour fully endorses this proposal for the changes to the amendment that ensures the independence of the panel through consistent and adequate funding for the investigation of occupational disease. We believe that the funding proposal that ties the panel's funding to the percentage of the board's administrative expenditures is one of the few options that provides a guarantee of adequate and consistent funding to carry out its mandate and at the same time ensures the relative independence of the panel from the board.

We can, on the one hand, recognize and support the need for an arm's-length agency from the board. At the same time, to subject the panel's funding fate to decision-makers at the board, there's just too much temptation, you know, for the board to put the financial squeeze on an agency. We can't recognize the need for adequate scientific research into occupational disease and not ensure that the work actually has an adequate funding base.

Finally, we believe that the costs generated by the panel's proposal are modest, in fact minuscule, and more than fiscally responsible. More importantly, it is more than justified by even the most conservative estimates of the actual extent of occupational disease that is currently underrecognized in this province. Workers have always been and continue to be given an onerous burden of proof in establishing claims and even protection from occupationally related disease, in the face of, I might add, a paucity of scientific research and a very complex and politically charged area.

1640

Ontario, as the most industrialized jurisdiction in Canada, is most subject to the generation and production of occupational disease and therefore a major public health problem. We therefore have a great responsibility

to ensure that this area of public health is adequately and properly addressed. We must stress that this area of disease recognition that the panel is involved in is not only important from the standpoint of just compensation for the victims, but it is also an essential step in disease prevention.

I will just finalize and say that we would also remind you that we are one of the wealthiest provinces in Canada as a result of our industrial activity and that it is inconceivable that we would find difficulty in addressing a major public health problem such as this with the modest funding being proposed by the panel.

**The Vice-Chair:** Brief comment, Mr Mahoney.

**Ms Carlan:** Mr Cooper, can I just suggest that Mr Macnamara have a chance?

**Mr John Macnamara:** I just have a couple of comments. I've been with the panel for three years and I work at Dofasco. It's been a good time for me to be part of the panel. It's been a very informative time. They're a very dedicated group of people and we work well together. The basis on which we work, which the government has endorsed, is consultation with the stakeholders, and wherever we can we reach consensus on all matters.

The time we have spent in the last three years dealing with the Ministry of Labour trying to sort out a memorandum of understanding to deal with our funding has been an inordinate amount of time and unacceptable. We have been not able to perform our work, subject to the controls of the ministry, which are against, we believe, the spirit and intent of the legislation in the creation of the IDSP, and it has not allowed us to do our work.

The amendment proposed in the bill would move us closer to the body that we are supposed to be distant from and independent of, and that's why we find the proposal unacceptable. It has not enabled us to do our work, and we wish to go forward on a basis that will secure independence, which is the basis on which the panel was created.

**The Vice-Chair:** Thank you, and that takes up all our time now.

**Mr Mahoney:** On a point of order, Mr Chairman: We've been asked to look at an amendment that's been submitted here, and I recognize the time constraints, but if we don't have time to ask the questions, somehow I'd like some clarification as to what one half of 1% is—I'm not familiar with that off the top of my head—and how it compares to your current funding.

**Ms Carlan:** Can I answer the question?

**The Vice-Chair:** Okay, we'll go for that response.

**Ms Carlan:** The operating budget, not the total budget of the board but just the operating budget, is \$327 million last fiscal year. So we're talking about, for us, \$1.65 million.

**Mr Mahoney:** So that's a 65% increase in—

**Ms Carlan:** Except that this year in fact we spent \$1.3 million. So the top-off would be 3.2.

**The Vice-Chair:** Ms Carlan, Mr Macnamara and Mr DeMatteo, thank you for giving us your presentation.



INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 1788

**Mr John Ives:** My name is John Ives. I'm a representative with the IBEW Local 1788. On behalf of Local 1788 of the International Brotherhood of Electrical Workers, thank you for the opportunity to comment on Bill 165. We feel that public involvement in the policies of government is extremely important, both in this forum and at the upcoming royal commission. I commend any government for attempting to rectify the problems, real or perceived, with the workers' compensation system. The royal commission must deal with the crisis within the system, but there are problems that require addressing now.

Our local union is an Ontario-wide local serving 1200 construction electricians, linemen, groundpersons and apprentices servicing the power sector. The majority of our work is with Ontario Hydro.

Construction is a unique sector. The Workers' Compensation Board recognizes this uniqueness by providing an integrated service unit strictly to deal with construction employers and workers. With unique problems, construction must be involved in any reform package that affects our sector. However, no construction representatives participated when this bill was negotiated.

Local 1788 will not endorse any negotiated legislation that neither local union 1788 nor the Ontario provincial building trades had a role in negotiating. Bill 165 was negotiated between select members of the labour and business communities. The provincial building trades council was not among this select few.

We were hoping Bill 165 would deal with more pressing problems with workers' compensation, specifically re-employment, the backlog of appeals and vocational rehabilitation. For injured workers, these problems are real and foremost on their minds.

Bill 162 was introduced by the Liberal government as a revenue-neutral amendment to the Workers' Compensation Act. It obligated employers to re-employ injured workers, thereby saving long-term benefit payments. Today, we can say Bill 162 has not worked. Many injured workers eligible for re-employment continue to remain unemployed and unproductive. The injured worker is, however, eligible for future economic loss awards. These FEL awards place a tremendous cost on the system that cannot be blamed on injured workers. The obligation to re-employ is on the employers. As Bill 162 has proved, employers have not fulfilled their obligations. The idea of employers being hassled by the job police, even in the absence of any complaint, seems to be completely unnecessary and unneeded by the employers of this province. But these are the same people who complain that future economic loss awards are placing an unfair burden on the employers of this province. Do they have a solution? Injured workers cannot look forward to Bill 165 increasing their chances of returning to work.

Bill 162 had a less-than-desirable effect on the workers' compensation system. The consultant, a hired gun used by employers whose only goal is to cut costs at the injured workers' expense, has become a fact of life at the board. These compensation professionals have clogged

the system with unjustified and unnecessary appeals, appeals that continue, leading to long delays and costly hearings. It is not unusual to wait six months for a hearing or three months for a decision from the decision review branch. Both the injured workers and the compensation system suffer because of these practices.

Vocational rehabilitation is the only problem facing the board for which a solution is attempted through Bill 165. The amendments to sections 51 and 53 attempt to deal with the employers' reluctance to participate with a successful rehabilitation program. Employers show more concern with unnecessary and unneeded hassles from the board rather than dealing with the successful rehabilitation of their injured workers. In a climate such as this, these amendments will enable an employer to impede an effective vocational rehabilitation at every turn unless specific safeguards are placed to protect the injured workers' rights.

Section 51 appears like a reasonable step in ensuring a safe return to work. This section will, with the consent of the worker, force physicians to release "such medical information as may be prescribed." However, a worker could be ruled uncooperative if he or she refused to consent. Being considered uncooperative dictates additional proceedings, adding to the backlog already at the board.

In a number of claims I have personally dealt with, injured workers have been ruled as uncooperative in their vocational rehabilitation program. The reasons often vary, but one constant continually appears and that is the doctor's advice. In one specific case, an injured worker was sent to a Canadian Tire store to stock shelves as part of a vocational rehabilitation program. The injured worker had a back injury that required surgery. The injured worker's restrictions included no bending, reaching, prolonged standing, sitting or twisting. Upon speaking with the worker, the physician determined that the worker should leave the program because the work was beyond the restrictions. The board subsequently informed the worker he was uncooperative.

How can a worker with these restrictions be expected to stock shelves? How can following a physician's advice on a seemingly simple claim be ignored? Section 51 does not change the policies or procedures of the board. Until the board recognizes family physicians' diagnoses and restrictions, this section is doomed to fail.

The prescribed information requested through section 51 must be specified. Allowing an employer unfettered access to an injured worker's physician will guarantee fishing expeditions by employers and their representatives. This is an invasion of the injured worker's privacy. The eventual goal of such action is to save money by cutting workers' benefits. Any medical information made available to employers must have a specific purpose under specific legislated guidelines.

#### 1650

This legislation must contain safeguards to ensure that medical information is only used after an employer has implemented a proper return-to-work program. The prescribed information must be non-diagnostic and strictly for the purpose of returning an injured worker to work in

a safe vocational rehabilitation program.

The amendments to section 53, like section 51, look good on the surface. Section 53 allows for employers in a proactive manner to participate in a vocational rehabilitation program and give the board rights to penalize employers who do not cooperate. However, this section does not go far enough to ensure that employers will establish a proper vocational rehabilitation program.

In one claim we are representing, the employer's idea of setting up a successful vocational rehabilitation program is to meet with the board case worker to discuss the work available, decide what the worker will do, meet with that injured worker and then explain that, "This is the work. You must either do it or get cut off compensation benefits"—no discussion with the injured worker, no discussion with the worker's physician and no discussion with the worker's representative. This is not a vocational rehabilitation program; this is legal blackmail: "Work or starve."

For any vocational rehabilitation program to work, there must be a cooperative effort made between the employer, employees, the union and the board. Section 53 excludes any input from the union and employees of the workplace. Section 53 will give an injured worker no option but to return to any suitable or unsuitable work that the employer offers, or starve. This is a complete disregard of protecting injured workers.

An employer who does not cooperate from the outset in an effective vocational rehabilitation program still has input and rights throughout the remainder of an injured worker's rehabilitation. After being penalized by the board under section 53, an employer can still be involved in a rehabilitation plan by filing objections and influencing rehabilitation goals. Not only is this not fair or just, but again will add more pressure and cost to a system already in disarray.

My overriding concern with these two sections is the exclusion of worker representatives. Injured workers are expected to sit down with an employer or an employer's representative and negotiate a safe return to work. This is clearly weighted in favour of the employer; that is to say, a professional human resource or labour relations expert negotiating with an injured worker.

In a unionized environment the worker may have some protection through a collective agreement. In a non-union environment the worker is at the mercy of the employer. This bill effectively excludes worker representation and minimizes the input from both physicians and board employees in a successful rehabilitation. Safeguards to injured workers' rights must be added to prevent unscrupulous employers from using the Workers' Compensation Act to penalize workers who get injured at work.

Bill 165 does contain some positive ideas. The purpose clause, for example, outlines fair compensation, vocational rehabilitation and a return to work as the overriding goals of the Workers' Compensation Act. The change in the board of directors to a bipartite board can only help install a fairness in the system. The recognition that WCB pensions require increasing is encouraging. However, the amount and narrow restrictions for qualification need to be addressed.

On the negative side, the Friedland formula for indexing and the cap of 4% must go. Indexing does not increase benefits; it keeps up with inflation. I question how this section is supported by the purpose clause purporting fair compensation.

Bill 165 is meant to fight the immediate problems in the compensation system. With some changes, it might. The overall system requires a larger study. The royal commission being set up must address the entire system with an aim of protecting injured workers' rights.

**Mr Offer:** Thank you for your presentation. There are a number of areas that can be addressed. But I want to start, if I might, with the final page of your submission. It spoke on the issue of the Friedland formula, the indexing, and your position that this particular formula, as contained in this bill, must go. I guess my question to you is this: Obviously, you know we have heard of that position a fair bit already. In the event that the government refuses to do that, are you in favour of the bill?

**Mr Ives:** No. I think the bill itself requires a lot of changes. By putting the Friedland formula in place or any kind of formula that de-indexes a pension or a worker's compensation, you're penalizing a worker for being injured.

**Mr Offer:** The government has said there will be a certain amount of savings associated with workers' compensation over that return-to-work issue. From your experience, does it work in your sector?

**Mr Ives:** It does not work. Return to work is something that employers will use to cut their losses, for lack of a better explanation. It just doesn't seem to work at all.

**Mr Offer:** There is a position in the bill that speaks to the injured worker consenting to the release of medical information, and it says it is at the option of the worker. In other words, the injured worker has the option to consent to the release of information.

There are some who have come before the committee and said that even though the bill reads that the worker has the option to consent to the release of information, if they do not there is the distinct possibility that the board will deem that worker uncooperative and exact a penalty from the worker. Have you got a position on that?

**Mr Ives:** I thought I was clear on that, but I guess not. Yes, that definitely does happen. If the board puts any position forward to any injured worker in today's world and the worker disagrees with it, the worker is cut off benefits.

**Mr Offer:** So in fact, the way you read that particular part of the legislation, the option the injured worker has is no option whatsoever.

**Mr Ives:** That's the way I would read it.

**Mr Turnbull:** Given that you have difficulties with these very main sections of the bill, would you think it might be a good idea to wait for the royal commission to report and then to make a complete change to the bill?

**Mr Ives:** I think the workers' compensation system needs some help right now. A royal commission—I don't know how long it will take, but there are problems with the way the system works. Workers aren't getting fair



compensation. They're not being treated properly. Again, as I said at the beginning, it was our hope that Bill 165 was going to address these inequities, to get re-employment rights for the workers, to ensure that safe vocational rehabilitation programs and plans were set up. I don't think the bill goes far enough on those points.

**Mr Turnbull:** As a union representative, how would you feel if an employers' group were to negotiate with you and extract certain compromises in exchange for a deal, but then in the end they renege on the deal but still insisted they get all of the compromises you had given?

**Mr Ives:** Sounds like contract negotiations.

**Mr Turnbull:** So you're saying that's fair game?

**Mr Ives:** No, definitely not.

**Mr Turnbull:** You see, that is the basic problem the employers' group has now, in that they negotiated what they felt was a balanced approach to this. There were many issues the unions didn't like that they gave up and there were many issues that really the employers didn't like giving up, but they arrived at a relative compromise on a lot of issues. There were still a couple that were outstanding, but the employers' group that was selected by the Premier to negotiate this felt they had made those compromises and then the government has cherry-picked from the compromises they gave up; they feel they've got none of the things they wanted to receive in return.

**Mr Ives:** I think that's labour's position also, is it not, that things have been cherry-picked, that they don't like the final wording, that some of the stuff that was negotiated was not put in there? I don't see a difference between that position and the position the OFL or myself has taken.

1700

**Mr Ferguson:** It's been suggested by many individuals that there is a crisis in terms of financing the cost of workers' compensation in the province of Ontario and that if some sort of remedial action is not taken in the short term as well as the long term, the hole the board now finds itself in will just quite simply become much deeper in the future.

I'm just wondering (a) if you share the view that there is a real financial problem and (b), perhaps more importantly, what you would recommend as some sort of action or measures that the government of the day ought to be looking at implementing in order to resolve this particular problem.

**Mr Ives:** Stop injuring workers. If workers don't get injured, you don't have to pay compensation.

**Mr Hope:** One of the things that's been brought out by the presentations from the employers' groups is they're saying freeze assessment, cut injured workers' pay and continue to give money back to the company for upholding the law in what's called the experience rating system.

I'm just wondering your opinions on those three items that have been brought forward. Should we continue to freeze assessments, should we cut injured workers' pay and should we continue to pay companies back money for upholding the law through the experience rating system?

**Mr Ives:** I don't get paid back when I obey the speed limit. Photo-radar has made sure of that.

**Mr Mahoney:** Good shot.

**The Vice-Chair:** Mr Ives, on behalf of this committee, I'd like to thank you for coming here today and giving us your presentation.

#### HAMILTON DISTRICT INJURED WORKERS GROUP

**Mr Paul Gibson:** I would like to first of all state that I'm representing the Hamilton District Injured Workers Group. My colleague, Mr John Battaglio, and myself are both injured workers and we come from the Hamilton area. We are board members of the newly formed organization and we have come here today to convey to you a message on behalf of countless thousands of injured workers and their families whose quality of life has been destroyed as a direct consequence of the compensation nightmare that all parties here in Ontario are facing.

I am grateful for this opportunity to share with you some of the concerns of injured workers, most of whom cannot be here today. First of all, I would like to express dissatisfaction that injured workers from the Hamilton area must come to Toronto to have their objections heard before this standing committee. Hamilton, as you know, is the home of the second-largest WCB office in Ontario. At the same time, I believe we hold the record for having the most cases unresolved at this time.

Coincidentally or not, since the evening of the last provincial election, Hamilton appears to hold the record in major cabinet posts and positions as well as zero opposition. Rest assured, Hamilton injured workers will change that and we will publicly expose the hardships that have been imposed upon our injured workers and their families.

In my submission, I will refrain from speaking about the specifics of Bill 165 in the interest of avoiding repetition. Karl Crevar, president of the Ontario Network of Injured Workers Groups, who has spoken previously, made a clear and concise presentation on behalf of all who will concur with the views expressed.

In his opening comments he stated that the 20-minute time limit allotted was insufficient for injured workers to express their concerns. In view of his having raised this concern beforehand, plus the fact that others had used less than their allotted time, the validity of his objections seems to stand firm. In this regard, we are compelled to say that many of us are appalled that he was not given sufficient time to complete his presentation. On the other hand, I ask you to bear with John and me as we attempt to relate some of the elements of horror that injured workers face day after day, day in and day out, year after year.

Our research reveals that under Ontario law an injured worker is entitled to compensation benefits for workplace injuries and disease. Further investigation has revealed that for many workers, upon filing a claim, benefit payments are often delayed for years. This causes unnecessary financial hardships and tormenting stress for many injured workers or their spouse and children. These self-perpetuating tactics result in emotional distress, feelings



of despair, discouragement, depression, violence, broken marriages, any of which could lead to suicidal ruin. The question is: Is there anything in Bill 165 that will eliminate these factors for injured workers and their families?

We believe that our hardships are caused by self-serving concerns, attitudes or actions of the corporate employer and the Ontario Workers' Compensation Board as well as the past or present governments. We refer to those strategies, planned or otherwise, which serve to delay the payment of lawful entitlement to injured workers. Perhaps the corporate hierarchy feel justified in their actions and that this is a businesslike thing to do. Regardless of their reasoning, it does nothing to lessen the devastating impact that their actions have upon the injured and their families. In view of the endless horror stories related by injured workers, it is reasonable to conclude that the unfair treatment of injured workers in Ontario is rampant and out of control. To the injured, this is an outrageous contravention of Ontario law. This of course must and will be appropriately determined by an unbiased standing committee or royal commission.

Who are we? We're ordinary folk. We're young or old; we are male or female alike. Many of us are married with children; some are not. Some are members of labour unions while others are not. In our midst there are some who believe in and put their faith in labour unions; on the other hand, some of us do not. It makes no difference in the end to whom our allegiance is directed or what our beliefs are or whether we are members of a specific political party, labour union, or for that matter a particular religion, lodge or fraternity.

Once upon a time we were productive, first-class citizens who were busily engaged in the career of our own choosing. Like many other citizens, we enjoyed a quality of life which accompanies gainful employment and regular paydays.

Then came the fateful day that we became an injured worker, for the most part through no fault of our own. Since that day, many of us have discovered through hard experience that our quality of life is now a thing of the past and that we have been treated unfairly by the country that we served as productive, gainfully employed citizens. Of course we must identify the real causes of our hardships and coordinate and unify our plans in an effort to end the injustices that are systematically imposed upon injured workers in Ontario.

Basically our injuries fall into three specific categories. They are: minor and major, visible and invisible, short-term and long-term. Injured workers seldom have difficulty in receiving benefits for minor, visible and short-term injuries. There are two reasons for this: They most often represent minimal or limited cost to the board or the employer; they are visible and more difficult for the board to deny.

The major problem area for injured workers is with major, invisible, long-term-type injuries. These types of injuries present major costs to the board as well as the employer. These injuries are invisible and harder to diagnose. As a consequence, the employer who is genuinely concerned with spiralling compensation costs

implements a plan at the expense of the injured workers which will put a stop to the erosion of profits. As a result, injured workers become sitting ducks for abuses in the form of purposeful delays that successfully delay the payment of lawful entitlements to themselves and to their families, as in my case. This type of spending restraint on the part of the board or the employer may be acceptable to their consciences or economic principles. However, we can assure you it is totally unacceptable to injured workers and their families who continue to be unfairly deprived or defrauded of their lawful benefits.

1710

I'm going to skip along a little bit here. I'm not sure how long I'll be able to carry on. I am a chemically sensitive person. I've had this condition for 12 years. It was one that evolved as a right of atrocious conditions within my workplace, conditions that my employer resented and objected to very strongly, conditions which my doctors worked very hard to identify. To this date I require a number of medications, a five- or seven-day injection. I require oxygen and sometimes I'm unable to carry on. Sometimes I lose my sight almost and I'm unable to read. I'm hoping that won't happen but I am having some difficulty.

What are the basic needs of the injured? First and foremost, we must be treated with dignity and respect rather than as outcasts. There is a need to be heard and to be understood. Our financial and emotional needs need to be met, not endlessly delayed until next year or the year after that. There is a need to understand that we didn't ask to be injured just to qualify for compensation benefits. All too often we are depicted as lazy, sit-at-home couch potatoes whose intentions are to reap the tax-free benefits from a lucrative compensation system. We are tired of being badmouthed by others such as our employers or the board and, in some cases, even our fellow workers or our friends.

Last but not least, we are calling upon good citizens everywhere to speak out publicly on our behalf in an effort to bring to an end for all time the atrocities, the half-truths, the discriminatory practices that have been foisted upon the injured, the disadvantaged and formerly employable good citizens. I ask you, is that really too much to ask?

Often we are relegated to the welfare rolls through no fault of our own. This is usually a direct result of unwarranted delays in benefit payments or appeals. There is a stigma attached to being on welfare. Lack of a regular income, wages, benefits etc, leads to financial pressures. We live in limbo year after year while awaiting compensation payments or decisions. Time and again we are confronted by excuses, even half-truths, about missing files, doctors' reports etc. All too frequently adjudicators are changed. There are endless delays as we await appeal dates and eventual hearings. All of this leads to a stressful situation which takes its toll in terms of the quality of our life.

Is it any wonder that many of us are depressed or suffer from low self-esteem? Is it any wonder that many of us have recurring suicidal thoughts or that others have already committed suicide? Ours is a tragic situation

indeed. Surely there is someone, somewhere, who cares enough to do something about the atrocious treatment of injured workers and their families. Even though the injured workers and their families despise the shameful treatment that has long been imposed upon us, we still love Canada.

Who pays the bill when an injured worker and his or her family are relegated to the welfare rolls? Who pays the bill when a worker is suffering a hearing loss and his claim for a compensable injury is denied? Who pays when the worker's claims are before the board or tribunals for 10 years or more, or when an injured worker obtains the assistance of a government-funded worker adviser, or when a destitute worker seeking justice is granted a legal aid lawyer?

Well, ladies and gentlemen, the recession is over. We hear it in the news each day. Injured workers are pleased to hear that. We hope that the attitude and the necessities of the past few years will change and that the suffering in silence of injured workers has ended. The time has come to restore justice for Ontario's injured workers and their families.

We must eliminate workplace hazards and decrease injuries. We must have enforcement of health and safety laws. This will help to cut costs and save the employer money in the long run. We must stamp out workplace discrimination against the injured. We must eradicate mental cruelty in the conditions that injured workers face. We will not accept Bill 165 in its present form. Some of the aspects of it are good, but there are changes that need to be made. Justice will prevail for injured workers and their families if and when the corporate employer and all others begin to care what's happened to injured workers.

Contrary to what some might say about injured workers, we are not a nuisance with a number. Though our hardships are unbearable, we're developing compassion and understanding for one another, and we will fight for the living and we will mourn for the dead. Injured workers and their families are organizing. Hamilton will soon become the injured workers' capital of Canada.

In my employment I worked for the Ministry of Correctional Services, the government of Ontario. I'm an ex-police officer. I saw conditions in my workplace that are so incredible they're beyond your belief and comprehension. I know that you people have no idea what happened to me, but I've written my story and I will be publishing it from coast to coast to let Canadians know what happens to injured workers.

I was put through incredible experiences. When I became ill, I was threatened with termination if I didn't discontinue my absenteeism. I had wanted to do this; I wanted to be better. It left me three choices: Get better, which I preferred to do, but I could not. It left me a choice of coming to work ill or quitting the job that I loved. I enjoyed my work and I worked hard, and I was a dedicated employee. I was threatened with termination. I've been dismissed twice. My hearings began in 1984. I've yet to get five cents of restitution from the government of Ontario.

So they tell us we're in an economic struggle at this time. Well, it wasn't that way 10 years ago, but I'm still

in the same boat I was. I'm in my 66th year now and I want to tell you that the things I've seen make me sometimes ashamed to be a Canadian. I know that there are disgraces that go on against injured workers that must not be tolerated. Yet I understand, because I've been a businessman too, the difficulties the employers are facing with astronomical costs. But life goes on just the same.

But my quality of life is not what it should have been or what I wanted it to be. I've gone so low and I've been so despondent and depressed I've struck my dear wife of 43 years. I'm ashamed of that, but that's one of the consequences that I faced because of what's happened to me as an injured worker in Ontario.

We have a lot of good laws, but there are a lot of abuses of those laws by people in positions of authority. I hope that I live long enough to see the day when someone will make some constructive changes that will help to resolve this horrible compensation nightmare that we all face.

I've been dismissed twice. I was elected to a health and safety committee. I went to work; I did my job. I reported unhealthy conditions. I was fired again. I was threatened with arrest. I've been ostracized by my fellow workers who believed that I didn't know what I was talking about. It took me eight years to prove that the building that I worked in was a sick building. Is it any wonder that I suffer from sick-building syndrome and multiple chemical sensitivities?

My compensation case has been on the board for over 12 years now. I'm finally, at long last, waiting hopefully that I'll get an appearance before the WCAT tribunal, perhaps if not this year, in 1995. I was 53 years of age when I started this pursuit of justice. I didn't want to be an injured worker. I wanted to be a good Canadian. I wanted to protect the life and the health of my fellow workers.

I apologize for the length of time I've gone. I appreciate your attention and I appreciate the privilege of coming here to speak to you today. I am a proud Canadian and I want to see things changed for injured workers, but I understand the difficulties that other people have, be it the present government or past governments or the corporate employer. Thank you for your time.

**The Acting Chair (Mr Waters):** Thank you. We have about a minute per each caucus.

**Mr Mahoney:** With regard to Bill 165, the de-indexation of the pensions known as the Friedland formula, are you familiar with that? In essence, what that does is, the government is using most of the revenue that's generated from that to pay older workers whose pensions are quite low an increase of \$200 a month. They will not be de-indexed. Those pensions will be 100% indexed to CPI. You will be de-indexed under the Friedland formula to 75% of CPI minus 1%, not to exceed 4%. It sounds a little complicated, but it really isn't. It's about three quarters of what you would currently get.

1720

I hear the very passionate pleas to help injured workers. How do you reconcile the fact that this govern-



ment is passing a bill that will in fact require current injured workers to take lower benefits in return for this document? You're paying the cost.

**Mr John Battaglio:** How I look at this is that it is absolutely ridiculous that it should be put on our back in the first place. It should be that the board should cut all of its expenses to its employees. They should put them on the Friedland formula and the 90% to its physiotherapy consultants and doctors. This is where the money should come from. These are the people who have been screwing this system up from day one and they should pay for it.

I don't understand how we ever got into the situation where we expect injured workers to look after injured workers when we're supposed to be in a system that is supposed to be looking after us. It seems like everybody else in this system is getting looked after except the injured workers.

**Mr Mahoney:** So it's safe to say you're not in favour of the bill.

**Mr Turnbull:** Just following on from what Mr Mahoney was asking, essentially you're dissatisfied with this bill.

**Mr Battaglio:** Actually, I'm dissatisfied with the whole system of compensation and the government and the way we do things here in Ontario.

**Mr Turnbull:** As you're probably aware, a royal commission is supposed to be called on this. My suggestion, and that of our party, has been that they should withdraw this bill, have the royal commission and then, based upon the royal commission, where we will have consulted broadly with people such as yourselves, we'll be able to hopefully arrive at a solution to these many problems.

**Mr Battaglio:** This would be a great idea, and the idea that if these people we are talking to in front of me, all of you people, ever listened to a royal commission or ever took any good advice in the first place. This whole royal commission means nothing when nobody listens to them anyway. There have been millions of good ideas in this country on how to fix this compensation board that don't get anywhere.

Sometimes injured workers really don't believe that the board runs the board. I don't know who the hell's running this board. It's a mess. The legislation is a mess. They're not even addressing what injured workers need. Injured workers want, first, foremost and always, their money replaced. They're not making their money; they want it. We didn't get in this system to lose money and we are losing it. It's always been a losing situation for people who do not return to work, and any idea that people do not want to return to work is just ridiculous. Look where it's coming from.

Another thing is, we have no representation at all as injured workers. We have everybody looking after us, and this fatherly looking-after doesn't seem to be doing very well for us. We'd like to get more involved in this system.

**Mr Ferguson:** I certainly want to thank you for sharing with us your very honest and compelling and forthright deputation. I think we've all benefited today by

your firsthand experience of how the system, on many occasions, is not serving the people it was intended to serve.

I do want to ask you about the royal commission. I would take from your comments that given the past history of royal commissions and recommendations that, I would agree with you, in many cases just simply sit on a shelf and are not acted upon—would you be willing to participate with the royal commission in trying to resolve some of the real difficulties that exist out there? I think you would agree that that just hasn't happened overnight. I mean, these are problems that have existed for quite some time and that really have been ignored for quite some time as well.

**Mr Battaglio:** Absolutely. We would certainly be willing to be involved in any royal commission. But the point is that before this commission even starts, this commission should have the power to implement law, and implement law not with the interpretation of the board distorting it all to hell, because they are in another world when it comes to the English language. It means absolutely nothing to them. They distort the idea of what the hell the legislation was in the first place. The legislation shouldn't be that hard in Canada to understand, but it seems to be Canadians can't understand Canadians.

**Mr Ferguson:** I think all of us here today wish you the best.

**The Vice-Chair:** Mr Gibson and Mr Battaglio, thank you for giving us your presentation today.

TIM EYE

**Mr Tim Eye:** Thank you for inviting me. My name is Tim Eye and I'm an injured worker, a former business owner, an elected Durham Regional Labour Council delegate for Local 222 Canadian Auto Workers union, chairman of the labour council's education committee and the day of mourning committee, an elected delegate by labour council to the joint health and safety WCB convention in February 1994, and also the vice-president and case worker for the Durham Region Injured Workers Group, and last but not least, I'm a taxpayer.

Whereas there is an apparent \$11-billion unfunded liability affecting the Workers' Compensation Board's ability to pay its financial obligations and although the current state of the Ontario economy is on the upswing, I believe an innovative approach borrowing from current business practice in Ontario may help offset some of those liabilities for the foreseeable future. The current business practice I am speaking of is restructuring. I will attempt to cover three areas of basic business principles with the following topics: (1) workers' liens—irresponsible employers shall pay for their legal obligations under the act; (2) broaden the employer base by legislating all workers employed in this province coverage under the act; and (3) eliminate duplication by legislating treating physicians full medical authority.

**Workers' liens:** I was a small business owner from 1982 to 1992 in the Durham region. I worked as a carpenter on a contract basis in the residential sector of the Ontario construction industry. Although I never had to secure a builder's lien against a property owner to



secure payment for services rendered, I've always been aware of the procedure of registering a lien against a property owner for non-payment. That is why during ordinary real estate transactions a title search is conducted by the law firm on behalf of the purchaser.

Looking back to what has happened to Ontario's economy over the last 10 years is appalling: some 400,000 jobs lost subsequent to the free trade and NAFTA agreements were proclaimed into law in Ontario alone. Of all these job losses, how many business owners chose to leave the province of Ontario to set up shop in the United States or Mexico? Who is liable to pay compensation benefits for workers who were formerly employed by those businesses that opted for greener pastures? I don't believe it is the responsibility of injured workers under the Friedland formula to do so, nor, I believe, of the rest of the responsible business community through across-the-board increases.

The logical solution is simple: workers' liens. I would recommend a department within the Workers' Compensation Board, possibly financial, be given the authority by legislation to register liens against employers who choose to leave this province or the legislated authority to become a primary creditor under the Bankruptcy Act for those employers who go broke. These precautions will ensure that the financial burden of compensable injuries falls to those business concerns directly liable. Although this may cover only a fraction of permanent injury claims, the financial burden is not unfairly redistributed to those who are not directly liable.

Broaden the employee base: There are over 20,000 employers currently exempt from Workers' Compensation Board legislation, many of them in the service sector of the economy. Those in particular to me are banks, other financial institutions and those in the insurance industry, obviously for monetary reasons. What truly bothers me is a current trend in this province of employers hiring workers under the guise of self-employed contractors.

I know of a case where a young lad got a job as a newspaper boy. His first and only job was to deliver a prominent Ontario newspaper in his local community. As the story goes, this self-employed contractor, while riding in the back of a delivery van en route to his paper route, fell out of an unsecured bench seat. He was in the back of a cube van with the back door wide open while rounding the corner en route to his paper route. The fall to the pavement behind the cube van was serious in its own right. However, the vehicle immediately behind the van proved fatal to that child contractor.

That boy paid with his life to deliver a simple newspaper. The injustice in this case is that the multinational corporation who published the newspaper he delivered was not legally liable. This is because a self-employed contractor is apparently responsible for their own insurance. This has resulted in Ontario seeing the trend in the number of contractors grow, in my opinion.

1730

Most workers who work in the service sector of the Ontario economy are not unionized, for various reasons. Workers who live from paycheque to paycheque usually do not have the financial resources to take up liability

suits against their employers to maintain a fair standard of living. Many of these workers who are employed in offices across Ontario are suffering from "secretary's disease," which is tendinitis or carpal tunnel syndrome, a repetitive strain injury directly related to the type of work they do.

To get a better understanding of these problems, ask yourself the following questions:

(a) Why would banks and insurance companies resist becoming a schedule 2 employer?

(b) Why would building companies and multinational publishing corporations hire self-employed contractors?

(c) Would the loss of the sickness and accident insurance market segment of the insurance industry to the Workers' Compensation Board be a direct threat to the insurance companies operating in that market segment?

(d) If they are diametrically opposed, is it because of the amount of profits they stand to gain from holding accident insurance policies in Ontario?

These questions beg to be answered by the people of Ontario, many of them injured workers who suffer every day from afflictions physically, emotionally, from the loss of either real or perceived self-worth. By eventually losing their self-sufficiency to becoming welfare statistics funded by the property taxpayers of Ontario, or because of holes in the system, they become destitute street people or check out permanently after their depth of despair has driven them to suicide.

Eliminate duplication: I have been directly involved with the workers' compensation for over 10 years, the last five of which I became active in the Ontario trade union movement, particularly with CAW Local 222 in Oshawa, as one of their elected delegates to the Durham Regional Labour Council and the Durham Region Injured Workers Group. I have handled many claims for members of my local union and many claims from people who do not have the benefit of a trade union to represent their interests.

An interest common to all injured workers I know is the question of which doctor is right, my doctor or the WCB doctor. Another issue I've been involved with is as follows: The injured worker's doctor and the WCB doctor agree that the injured worker, in this case a truck driver, is left with brain damage. The problem: A claims adjudicator doesn't have enough information to render a decision, despite a wheelbarrow of medical evidence and testing stating that this man suffers from brain damage. This particular case is another "delay and ignore" case. The excuse, four months—I apologize for the typographical error—after already waiting six months for a Downsview re-evaluation, is that the doctors' reports are waiting to be typed. The sad point in this case is that the claims adjudicator ruled the injured worker "Fit to drive truck again."

I ask any one of the members of this committee the following question: Would you want to meet this guy on the 401 going west in an eastbound lane, with 20 tonnes of steel behind his cab, especially when you know he can hardly remember his way to his own mailbox? I also ask you this: Who is right? Why are people acting on behalf

of the WCB exempt from liable actions in court? Is it because the board is already aware of some severe incompetence? These are the questions and problems that scream for answers and solutions.

I certainly believe that a worker's personal doctor or doctors, by virtue of being most familiar with the individual concerned, is the logical choice in all cases. Furthermore, why is the WCB paying for two medical systems while the Ontario economy as a whole is restructuring? This leads me to two more questions:

(1) How much does the Downsview rehab centre cost the WCB?

(2) How much do the various private agencies, including assessment and/or vocational rehabilitation centres, cost the WCB when many certificates of accomplishment aren't worth the paper they're printed on?

I would certainly recommend the following to this committee: (a) grant full medical authority to the individual injured worker's personal doctor or doctors exclusively through a further amendment to Bill 165, and (b) dismantle Downsview rehab centre and all other assessment and rehabilitation centres that have any current medical jurisdiction funded by the board, and repeal former legislation connecting these agencies to the board.

Common sense will show this committee that money spent on redundant services can be used to pay for the unfunded liability and give some much-needed financial relief to the employer community in Ontario as well as other injured workers in this province.

Since PLMAC was conceived by the current provincial government, injured workers have been left out of the equation. This has left organized labour and the employer communities responsible for a solution that affects all workers, whether unionized or not, and the entire medical community. Although all workers are directly affected by this legislation, the committee that negotiated this agreement did not include any injured workers.

Although all doctors must meet the strict standards of the Ontario College of Physicians and Surgeons to become licensed practitioners in Ontario, only some will have a final say, because many Ontarians see board doctors as recipients of some form of political patronage.

In closing, I would like to thank this committee for hearing this injured worker today. I believe the questions I have asked, when answered, will provide solutions to some of the problems I have addressed today. I have tried to be direct and objective in the recommendations I have put forward to you as well. I hope God grants you all the wisdom and courage of conviction to follow through with the task before you today. Are there any questions?

**Mr Mahoney:** No questions. Just thank you for the presentation.

**Mr Turnbull:** Thank you very much for your presentation and your thoughts on this. Just one thing that has been mentioned by a few people is this question of broadening the employee base. I'm not suggesting this is good or bad; I'm just simply trying to inquire.

Presumably, any extra revenue that would be driven by that broad employer base would then be used to compen-

sate those workers from those sections. It isn't as if it's suddenly extra revenue to subsidize the other industries. So I don't see how that solves the problem.

**Mr Eye:** The point I was trying to make, if I may add lib here, is that many workers are suffering from repetitive-strain injuries, like carpal tunnel, from doing a lot of typing and this sort of thing in the offices around Ontario. They don't have the benefit of going to workers' compensation to seek benefits.

**Mr Turnbull:** Okay, so you weren't offering that as a financial solution. It was just simply to say that those people need to be covered.

**Mr Eye:** These people should be covered, in my opinion, yes.

**Mr Turnbull:** Okay, thank you very much. The other quick question was, you suggest extending authority to the personal doctor of a person to establish injury. Do you not see potentially a problem in some cases, if the doctor is on a very friendly basis with that person or in a small community? If the person goes and is turned down, I think there's a great deal of pressure on that individual's doctor to say, yes, the person is injured, even if they're not.

**Mr Eye:** I believe any doctor with any common sense and human decency would not jeopardize his right or privilege to practise medicine in this province if he was found to be incompetent by the college. I don't believe some doctors are more qualified than other doctors by virtue of their services being secured by the Workers' Compensation Board.

I believe simply that a personal physician would be more familiar with the whole case, with the whole history. In some cases, and certainly in some of the smaller communities in this province, you may have a doctor who delivers, personally, half the area residents and grows old in the community. Certainly he would know, or she would know, these people very intimately, I would think.

**Mr Turnbull:** Do you have any personal difficulty with the concept that somebody may get a partial permanent pension and uses that to have an income which is larger than they had at the time of the injury as a result of having that pension?

**Mr Eye:** I can speak from personal experience. I was injured on June 1, 1984, in a manufacturing corporation. I nearly had my left hand severed from a sheet metal cut. If it hadn't been for another employee who had St John's Ambulance training, I would be a death statistic today. I can certainly tell you that when I go to bed at night, I go to bed with a certain amount of discomfort and pain and I wake up in the morning with a certain amount of discomfort and pain.

I don't really believe I have a lot of time to get into 10 years of history and my struggle in working uphill to have some common, decent dignity. I think if you'd like to speak to me after this meeting adjourns, I'd be glad to elaborate. I know my time is limited, and to be able to respond properly—in my case, I'm fortunate enough. I am in receipt of a permanent partial disability award myself. How can you say to one worker, "What is it



worth to you?" Is it worth \$1,000 a month to you if you're an injured worker and you can't sleep with your spouse because of violent recurrent nightmares? Is it? What is it worth? Can we put a price on this? I don't think so.

1740

**Mr Hope:** I wanted to ask you, because you deal with injured workers in your community, have any of them ever been under private investigation? You used the brain injury incident as one, where it's an unseen injury. In some of the dealings with workers' compensation that you've dealt with, have you ever run into employers hiring private investigators to follow up on maybe a back injury claim, saying that a person just doesn't want to work and they hire a private investigator to take the videos and to do all the nice little things and to present that before the board to hold up the appeals process?

**Mr Eye:** I can't tell you about a lot of other people, but I can tell you it happened to me.

**Mr Hope:** What happened?

**Mr Eye:** I had one of these compensation "I Spy" guys down on the end of my street. I was out on total temporary benefits from an aggravation of an old injury in 1988, I believe, and I was accused by somebody acting on behalf of my employer at the time of running an outside construction company. I thought it was very amusing at the time, and I believe it was about the February 1988-89 time frame, that the employer would think that I would be out putting fence-post holes in the ground when there were three or four feet of ice and frost in the ground. But this is one of the things that I have personally gone through. Other people? I am aware of it. There's talk of it in the injured worker community and where I live in Oshawa, but I know personally of no other cases.

**Mr Hope:** In some of the resolutions that you've put forward about dealing with it you've identified—because there are some out there who say the injured worker doesn't care about the unfunded liability. I see in your presentation you have tried to address some of those cost factors which will help make savings. Are you looking at the savings in the year 2014 to be reduced in the unfunded liability or are you just saying good, proper management, that there might be always an unfunded liability there but it's going to take maybe a little bit longer?

I'm looking at the recommendations. We've had employers' groups that have been very clear, saying: "Freeze assessment. Cut injured workers' pay. Continue to give companies back money through the experience rating program. Continue to give them money back." You've come up with a proposal. Some of it makes sense. Why are we spending for duplication of services in some areas? But in the analysis that you use, are you looking at the year 2014 for this unfunded liability to be reduced?

**Mr Eye:** Sir, I don't believe I have access to the resources that could give me those crunching numbers. I am a simple carpenter. I work in an automobile assembly plant in Oshawa. I can certainly tell you that proactive

health and safety committees work. We just went through a massive retooling in the two car assembly plants without one lost-time accident on the General Motors construction gangs. I know that for a fact. We had a barbecue this spring to celebrate that. Proactive health and safety committees work. They do.

**The Vice-Chair:** Thank you, Mr Eye, for taking the time out today and giving us your presentation. Perhaps you could introduce the person you brought along for moral support before he leaves.

**Mr Eye:** The person I brought along for moral support is my son. I thought, what better way to educate a young Canadian than to see him and to be able to be here while government is in action?

**The Vice-Chair:** Thank you both for participating.

**Ms Murdock:** What's his name?

**Mr Eye:** My son's name is Benjamin. Watch out for him about 30 years from now.

#### TRENTON-BRIGHTON DISABLED WORKERS ASSOCIATION

**Mr Herb Jones:** Good afternoon, honourable ladies and gentlemen. My name is Herb Jones. I'm president of the Trenton-Brighton Disabled Workers Association. We are here today in response to Karl Crevar for putting forward our objections to this bill. Karl has said it 100% better than what we could do it.

The only thing I would like to add is that injured workers are having a real hard time out there. Injured workers are losing their homes, their wives are leaving, everything like this. They're declaring bankruptcies, everything. With the injured workers, we are more or less classed as third-class people. We were not that before we were injured.

Ladies and gentlemen, welfare is one of the highest-paying organizations the Ontario government has. Why can't injured workers be on the same level as the welfare organization? Thank you very much.

**Mr Mahoney:** Thank you. Much of the concerns we hear from injured workers, the previous two deputations and I'm sure in your organization you've experienced this, have to deal with problems around service delivery to injured workers on the board. The complaints, when I did the outreach tour, that we got consistently all over the province said that—we heard the real frustration that injured workers had in dealing with the board. Do you see anything in Bill 165 that you think will effectively improve service delivery to injured workers?

**Mr Jones:** Not really, sir. I think the biggest thing, if it could be written into this bill, is for the adjudicators and case workers to treat injured workers as a person, not as a number, and when somebody calls in for information, like their spouse, not to snap at them and tell them that they cannot be informed on that claim.

**Mr Mahoney:** I'm sorry, I didn't follow that. When a spouse of the injured worker calls?

**Mr Jones:** Calls in for an injured worker, and 90% of the time a case worker or an adjudicator will inform that spouse that they cannot be informed.

**Mr Mahoney:** But of course, think about that a little



bit. How do they know over the telephone that it's the spouse calling? How do they know that it's not perhaps a marital problem? They can't give information out over the telephone to someone based on them claiming to be someone. I think there'd be real serious privacy laws.

I'm more interested in your thoughts on—the previous gentleman put a lot of emphasis on the involvement of the doctor, the medical community. I have found out and believe very much that the problems are based on the fact that you're an injured worker, you go to your family doctor. I've known my family doctor since we were both seven years old together. If I go to him and say, "Dr Tom, I hurt my back," he's going to say: "Of course you did. We'll fill out a claim form." He's not going to argue with me about it. He's my family doctor.

They don't really want the responsibility that the previous gentleman was suggesting they should get, because then they feel like, as a family doctor, their job is to diagnose, prescribe medicine, help you get better; it's not their job to adjudicate a claim. So they say, "No, don't do that."

I'm wondering if a trained physician within the WCB or within the system, not employed by the board but within the system, specifically trained in the area of the types of injuries that occur in certain industries, because they're very different in construction than they are in steel or very different areas, but trained and specialized in that area, would be the one who would make the recommendation.

1750

What I'm getting at here is that the first decision that's made—someone said this earlier today and I've said it before—is usually made by the most inexperienced person who's had three weeks of training. It's not their fault they're inexperienced; they've had three weeks of training. They're an adjudicator, they make a decision. The doctor looks at the report and looks at the file: never looks at you, never meets you, looks at the file. How do they make a decision on that?

From a point of view of service delivery, if you get quicker decisions, you get better decisions, it seems to me, and then a clearer path to appeal directly to WCAT as quickly as possible. It seems to me that's just some idea of how to improve service delivery. I wonder if you have any thoughts.

I don't see any of that in Bill 165. We will be putting amendments that will try to address some of those things, but I'm quite confident that the majority government members will likely defeat all our amendments, because they've got their marching orders from the minister. I think those are the kinds of solutions that need to be put in place to make this system work for you and for the two or three gentlemen who appeared just before you.

**Mr Jones:** Yes, sir. The biggest problem with having a doctor sitting on the board, he hasn't seen you from the date of your injury or has never seen the X-rays until they are sent to him or he requests them. The biggest problem with having to go and see a WCB doctor is the fear that "Oh, well, there's nothing wrong with you. You can go back to work."

We've had four cases like that right now where they have gone to Ottawa, have seen the doctor in Ottawa, and they said, "Fine, you can go back to work." The injured worker goes back to work. Four days later he's back in the hospital, worse than ever, because they did not go by what the family or a specialist had said. Now, if you could go and see a specialist every time, it might work but not to drive all the way to Ottawa or all the way to Toronto to see a WCB doctor.

**Mr Mahoney:** And millions of dollars in mileage costs.

**Mr Jones:** Yes.

**Mr Turnbull:** Thank you very much for coming along today. I have no questions.

**Mr Ferguson:** I would just like to echo the sentiments of other members of the committee. We certainly appreciated your very short, concise, right-to-the-point, direct presentation. We did have as well a number of other people from your area of the province make presentations yesterday. So we appreciated you appearing today.

**Mr Jones:** Thank you. Our presentation is being mailed in as well. So thank you very much, ladies and gentlemen.

**Mr Turnbull:** Could I just make a request that the committee ask the researcher to organize the notes in terms of the various categories, showing how many employers and how many workers have objected basically to the various elements so we can quickly have an overview at the end in the report, not just a block number, but a sense as to where the objections occur. It's probably useful for all parties.

**The Vice-Chair:** I'm sure research can handle that. There is a two-week period before we get into clause-by-clause after the public presentations.

**Mr Mahoney:** You could even show a category of those who came forward in support of passing the bill who didn't agree with it. We've had a number of those.

*Interjection.*

**The Vice-Chair:** Just one moment. Mr Jones, on behalf of this committee I'd like to thank you for coming here today and giving us your presentation. I'll excuse you now while the committee members carry on.

**Ms Murdock:** I just wanted to clarify the record, the comments on the stats on the adjudicators' training, the three weeks that Mr Mahoney has mentioned a couple of times. I checked with WCB people who are in the back row back there observing us. It's 12 weeks' training on entitlement issues and then, depending on the individual, they get further training—well, no, all individuals get extra training; depending on the individual, the time limit is different before they even get further training on benefits. Then that benefits training is another period of time. So it is not three weeks.

**Mr Mahoney:** In British Columbia it's a one-year apprenticeship.

**Ms Murdock:** It works out that it's well over one year here in Ontario.

**Mr Mahoney:** That's not what they tell me.

**Mr Hope:** A couple of pieces of information I was

wondering about through legislative research is, dealing with the NEER program, how much was paid last year and the year before?

**Mr Fenson:** I'm sorry, which program?

**Mr Hope:** The NEER program. How much was paid to employers for the past two years with that? Also, if you could verify statistics for me, because my colleague Mr Ferguson had used them, between 1990 and 1993 if the rates did decrease by 23 cents for the average rate of assessment per \$100 for employers, so the average rate had dropped 23 cents from 1990 to 1993 for employers and also from 1990 to 1994 dropped 17 cents for employers on the assessment rates. I was also wondering if you could verify that during the period of 1984 to 1993 assessment rates went up 78 cents per \$100 for employers.

We've been hearing about costs, and if I'm seeing that the cost from 1990 to 1994 has dropped 17 cents per \$100 for employers' assessments, I'm just wondering where they're saying the increase in costs WCB has come up with with their assessment fees. That's in conjunction with their NEER money that they're getting back too.

**The Vice-Chair:** Does legislative research have all that? Okay. Mr Ferguson.

**Mr Ferguson:** I'll be very brief because I know it's almost 6 o'clock. Mr Turnbull has put forth a request, and I have no particular objection to the request. I think it would be useful to the committee to have some kind of summary.

However, to be fair, I think we all recognize that a number of people who have presented before the committee have supported the bill and not supported certain parts of the bill or have supported the bill and asked for improvements to other sections of the bill. I suppose it depends which way you look at it.

I hope that research will take that into consideration when compiling the scorecard that has been asked to be presented: who's in favour, who's opposed and what the numbers would be. I don't know how you'd want to organize something like that, but the hearing process to date certainly has not been a black and white issue. There's been a lot of grey area where people say: "We support the bill. We disagree with these various sections, but overall generally we support the bill."

**The Vice-Chair:** I might remind all the committee members that in the past, in other pieces of legislation and in other committees, legislative research has done very excellent jobs in producing their summaries in a timely fashion so we can get into clause-by-clause.

**Mr Ferguson:** I wasn't suggesting that in fact that would not be the case. However, I just wanted to get the point on the record that there's been a lot of grey area and people who are neither particularly enthused nor particularly opposed to this piece of legislation.

**The Vice-Chair:** Thank you very much. Seeing no further business before this committee, this committee stands adjourned until 10 am tomorrow.

*The committee adjourned at 1758.*









## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Vacant

**\*Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

**Acting Chairs / Présidents suppléants:**

\*Klopp, Paul (Huron ND)

\*Waters, Daniel (Muskoka-Georgian Bay ND)

Conway, Sean G. (Renfrew North/-Nord L)

\*Fawcett, Joan M. (Northumberland L)

\*Ferguson, Will, (Kitchener NDP)

Huget, Bob (Sarnia ND)

Jordan, Leo (Lanark-Renfrew PC)

\*Murdock, Sharon (Sudbury ND)

\*Offer, Steven (Mississauga North/-Nord L)

\*Turnbull, David (York Mills PC)

Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

**Substitutions present / Membres remplaçants présents:**

Akande, Zanana L. (St Andrew-St Patrick ND) for Mr Huget

Hope, Randy R. (Chatham-Kent ND) for Mr Wood

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Conway

Wiseman, Jim (Durham West/-Ouest ND) for Mr Huget

Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Fenson, Avrum, research officer, Legislative Research Service



# CONTENTS

Wednesday 24 August 1994

<b>Workers' Compensation and Occupational Health and Safety Amendment Act, 1994, Bill 165,</b> <i>Mr Mackenzie / Loi de 1994 modifiant la Loi sur les accidents du travail et la Loi sur la santé</i> <b>et la sécurité au travail, projet de loi 165, M. Mackenzie</b> .....	R-903
Ontario Hospital Association .....	R-903
Peter Harris, chair	
Dennis Timbrell, president	
Russ Gurman, chair, workers' compensation committee	
Oxford Regional Labour Council .....	R-906
Terry Coleman, vice-president	
Kelly Hoskin, representative	
Canadian Railway Labour Association .....	R-909
Jim Houston, vice-chair, Ontario legislative committee	
Glenn King, committee representative	
Ontario Chamber of Commerce .....	R-912
Wallace Kenny, chair, employer-employee relations committee	
Joe Pinto .....	R-915
Toronto Workers' Health and Safety Legal Clinic .....	R-918
Dan Ublansky, director	
Ontario Restaurant Association .....	R-921
Rachelle Solomon, manager, government affairs	
Paul Oliver, president	
Canadian Union of Public Employees, Ontario division .....	R-925
Sid Ryan, president	
Reuben Roth .....	R-928
Motor Vehicle Manufacturers' Association .....	R-932
Mark Nantais, president	
Rosemary McNamee, associate administrator, salaried personnel/compensation benefits policy, General Motors of Canada Ltd	
Bruce Waechter, labour relations planning manager, Ford Motor Co of Canada Ltd	
Rick Thrasher, supervisor, workers' compensation and medical plans, Chrysler Canada Ltd.	
Ontario Nursing Home Association .....	R-935
David Cutler, board vice-president	
Shelly Jamieson, executive director	
Employers' Advocacy Council .....	R-938
Ron Calhoun, Ontario provincial chair	
Steve Cryne, executive director	
Industrial Disease Standards Panel .....	R-942
Nicki Carlan, chair	
John Macnamara, employer member	
Bob DeMatteo, labour member	
International Brotherhood of Electrical Workers, Local 1788 .....	R-945
John Ives, representative	
Hamilton District Injured Workers Group .....	R-947
Paul Gibson, board member	
John Battaglio, board member	
Tim Eye .....	R-950
Trenton-Brighton Disabled Workers Association .....	R-953
Herb Jones, president	



R-40

R-40

ISSN 1180-4378

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

## Official Report of Debates (Hansard)

Thursday 25 August 1994

Standing committee on  
resources development

Workers' Compensation and  
Occupational Health and Safety  
Amendment Act, 1994

Vice-Chair: Mike Cooper  
Clerk: Tannis Manikel

## Journal des débats (Hansard)

Jeudi 25 août 1994

Comité permanent du  
développement des ressources

Loi de 1994 modifiant la Loi  
sur les accidents du travail  
et la Loi sur la santé  
et la sécurité au travail

Vice-Président : Mike Cooper  
Greffière : Tannis Manikel

*50th anniversary*

**1944 – 1994**

*50<sup>e</sup> anniversaire*

### **Hansard is 50**

Hansard reporting of complete sessions of the Legislative Assembly of Ontario began on 23 February 1944 with the 21st Parliament. A commemorative display may be viewed on the main floor of the Legislative Building.

### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats a 50 ans**

Le reportage des sessions intégrales de l'Assemblée législative de l'Ontario, fait par le Journal des débats, a commencé le 23 février 1944 avec la 21<sup>e</sup> législature. Une exposition pour marquer cet événement est étalée au premier étage de l'Édifice du Parlement.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'Index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.





## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU  
DÉVELOPPEMENT DES RESSOURCES

Thursday 25 August 1994

Jeudi 25 août 1994

*The committee met at 1008 in room 151.*WORKERS' COMPENSATION AND  
OCCUPATIONAL HEALTH AND SAFETY  
AMENDMENT ACT, 1994LOI DE 1994 MODIFIANT LA LOI  
SUR LES ACCIDENTS DU TRAVAIL  
ET LA LOI SUR LA SANTÉ  
ET LA SÉCURITÉ AU TRAVAIL

Consideration of Bill 165, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act / Projet de loi 165, Loi modifiant la Loi sur les accidents du travail et la Loi sur la santé et la sécurité au travail.

## CANADIAN MANUFACTURERS' ASSOCIATION

**The Vice-Chair (Mr Mike Cooper):** We are continuing our public deliberations on Bill 165. Our first witnesses are from the Canadian Manufacturers' Association. Good morning and welcome to the committee. Just a reminder that you'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you'd leave time for questions and comments from the caucuses. Please identify yourselves for the record and proceed.

**Mr Paul Nykanen:** Thank you, Mr Chair. First of all, the Canadian Manufacturers' Association wishes to thank the committee for the opportunity to present our position regarding Bill 165, An Act to amend the Workers' Compensation Act and the Occupational Health and Safety Act. Our presentation to you today will be made by myself, Paul Nykanen, vice-president of the Ontario division of CMA; Rosa Fiorentino, who is with Imperial Oil and is the chair of the CMA workers' compensation committee; and Maria Marchese, workers' compensation specialist with CMA.

By way of introductory remarks, CMA is a voluntary organization representing manufacturers of all sizes from all sectors and from all regions of the country. This year, CMA celebrated its 123rd anniversary as an association representing manufacturers.

In Ontario alone, CMA member companies represent over 75% of the total manufacturing output of the province, or \$121 billion annually. We wish to differ from the Minister of Labour's view, as expressed at these hearings on August 22, 1994, that the manufacturing sector is no longer one of the twin pillars of Ontario's economy, because in employment alone manufacturers account for 880,000 direct manufacturing jobs and provide an additional 600,000 jobs in service industries which are directly related to the manufacturing sector.

As a major generator of economic activity and a pro-

vider of high-paying job opportunities, I would suggest that manufacturing is at the forefront of economic change and wealth creation in Ontario. We've been actively involved with the workers' compensation system since its beginning 80 years ago. Within the system today, the manufacturing sector is responsible for approximately 42% of the assessment revenues which are collected by the WCB.

I'd like to talk a little about the reform process. The CMA has been an active participant in the debates concerning workers' compensation since prior to the inception of the system. CMA currently holds seats on numerous WCB committees, including the employers' advisory group on revenue issues, and is a member of the Workers' Compensation Appeals Tribunal advisory group and the office of the employer adviser. CMA also held one of two employer seats on the steering committee of the WCB chairman's task force on service delivery and vocational rehabilitation. Our participation of involvement in workers' compensation has been a long-standing one.

CMA has also supported, through its participation on the business steering committee, the business caucus of Premier's Labour-Management Advisory Committee in the development of the business proposals for reforming the workers' compensation system. These proposals were tabled in October 1993 and presented to the Premier in November 1993.

At the request of the Premier, the business community agreed to the participation of the business members of PLMAC to work with labour to develop recommendations for a balanced approach to solving the problems confronting the workers' compensation system, which would not only provide fair compensation to injured workers but would also meet the test of being financially sound. The stakes are very high: For workers, it is ensuring that the benefits will be available to meet all future needs of workers and their families, which can only be achieved with a financially sound system; and for the economy as a whole, it is the existence of future jobs and a strong business base in the province.

The Premier, in his April 14 announcement, stated that the WCB will be changed to "meet the twin challenges of real fairness and fiscal responsibility" and that "it is essential that the change be balanced. It must speak to injured workers and to the needs of the broader economy." CMA maintains that Bill 165 fails to pass the test of being a responsible solution to a very serious crisis and meets neither the challenge of real fairness or fiscal responsibility. The government's process of reform, as evidenced by Bill 165, is indicative of the government's

lack of understanding as to the magnitude of the fiscal crisis facing the WCB and of the government's lack of commitment and willingness to implement solutions which would instil financial responsibility and accountability in the system.

The CMA, along with the broad business community, entered in good faith the reform process with the understanding that the government was truly committed to rectifying the problems of an agency with a debt which currently stands at over \$11 billion. After hundreds and hundreds of hours of dedicated work over the past year, the business community presented a proposal which met all of the Premier's criteria. What the business community was handed instead was a reform package in the form of Bill 165, which does not resolve the present financial crisis, does not ensure the future viability of the system, does not instil financial responsibility and places future benefits to injured workers at risk.

As a member of the business steering committee, CMA supports the position outlined in the BSC brief to this committee on August 23, which is appendix A of this presentation. Bill 165 does not reflect the agreements that were arrived at by business and labour as articulated in the PLMAC accord of March 1994. We wish to state for the record our extreme disappointment with the activities of the government with respect to the process of reform of the workers' compensation system.

When one considers the direct contributions of manufacturing and those of other sectors which are dependent on manufacturing, including significant portions of the service and natural resources industries, manufacturing accounts for more than half of all the economic activity in Ontario. The manufacturing sector today is under unprecedented pressure. Competition from companies and countries all around the world is more intense than it has ever been before and continues to accelerate. Bill 165 not only fails to provide assistance to Ontario employers in improving their competitiveness, it presents further obstacles to that objective.

Bill 165 is legislatively and administratively flawed and falls markedly short of producing a system which will meet the test of being financially sound. Tinkering with the bill will not solve the administrative and legislative problems which will arise with its implementation. As outlined in the BSC position, Bill 165 will not address the fiscal crisis and does nothing to restore the lack of confidence that all stakeholders have with the system. Bill 165 produces a skewed package of reforms which debases a consensual agreement while altering and interpreting it for the government's own needs.

CMA calls on the government to withdraw Bill 165, and we ask this committee to consider the recommendations of the BSC as presented to the Premier as the basis for any further government initiatives in workers' compensation.

The following is a brief outline of some of the inadequacies in the bill which we believe supports our request for its withdrawal. By way of commentary on the bill, it is our intention to limit our comments to broader issues with some reference to particular aspects of the bill for illustrative purposes. There are numerous other issues and

the CMA will be presenting the committee with a detailed written submission. I'll now call on Maria Marchese to comment on some of these issues.

**Ms Maria Marchese:** In the business proposals tabled in October 1993 and presented to the Premier in November 1993, a financial responsibility framework and the new governance structure served as the cornerstones of reform. As outlined in these proposals, the financial responsibility framework and the new model were intended to inject a balance into the workers' compensation system between securing benefits for injured workers and the need for financial responsibility and accountability at all levels within the system. It was felt that this balance could be accomplished only when roles and responsibilities of the various parties in the system were clearly defined, understood and enshrined in legislation, thereby binding on all parties.

A purpose clause and a financial responsibility framework would be the method by which the balancing of ensuring benefits for injured workers and financial responsibility and accountability could be achieved. This proposal was agreed to by both business and labour in March 1994 in the PLMAC accord. Bill 165, instead, introduces through section 1 a purpose clause which clearly omits the financial responsibility framework as one of the purposes of the act.

The purpose clause, as written, focuses on providing fair compensation and other benefits only, without the inclusion of legislative requirement to have the highest level of financial responsibility and accountability on the part of persons charged by this act with administering the workers' compensation system in Ontario, as was set out in the business proposals. Also absent from the bill is the requirement that any proposed changes to benefits, services, programs or policies under the act are thoroughly analysed in order that the financial consequences of the proposed change do not negatively impact the competitiveness of Ontario employers, again as proposed by the business community to the Premier.

The government claims that financial responsibility is enshrined in the act through section 12 of the bill, in its requirement that the board "act in a financially responsible and accountable manner," and subsection 15(3.2), in its legislative requirement that, "The board shall evaluate the consequences of any proposed change in benefits, services, programs and policies to ensure that the purposes of this act are achieved."

As drafted, however, the bill does not require the WCB administration or the government to consider the financial consequences of their decisions. In fact, by referring the board to the "purposes" section of the bill when evaluating proposed changes, as subsection 15(3.2) does, there exists no requirement to consider the proposed changes within a financial context.

The purpose clause is open-ended in its stated purpose of providing fair compensation without defining it. As written, it serves to broaden the base for entitlement by requiring that the purpose clause be the point of reference for all proposed changes in benefits, services, programs and policies without financial considerations.

The Ministry of Labour, in its August 22, 1994,



presentation to this committee, stated that "Bill 165 is the most financially responsible piece of workers' compensation legislation" ever introduced by the Legislature and is aimed at achieving a funding ratio of 55% and an unfunded liability of \$13 billion in the year 2014. We submit that even if the government's estimates are correct, this level of debt is still totally unacceptable and does not satisfy any definition we are familiar with of "financially responsible."

1020

**Ms Rosa Fiorentino:** Bill 165 introduces new return-to-work and vocational rehabilitation obligations on employers, including new mediation powers for the board. We submit that these new provisions are unnecessary as the current legislation adequately provides for re-employment obligations.

We believe that new provisions in this area, such as those introduced in Bill 165, will only serve in exacerbating the service delivery and vocational rehabilitation problems currently existing at the WCB. The bill is noticeably silent on legislative requirements that the WCB provide all the resources necessary to assist employers in returning workers to work.

More importantly, the bill fails to impose balanced legislative requirements on workers to participate in more timely return-to-work efforts by the employer. The current act provides insufficient obligations on workers to comply with return-to-work arrangements. Legislatively, the bill does nothing in the way of rectifying these inadequacies by providing legal obligations on workers and the medical community to provide employers with the medical information necessary to modify the workplace or accommodate an injured worker. In fact, section 8 will serve as an impediment to expediting the return-to-work processes in its requirement that a worker must consent to the release of pertinent medical restrictions and details required by the employer from the treating physician rather than allowing all employer to receive the necessary return-to-work details directly and promptly.

The government claims that this package is balanced. We submit that there is no balance when an employer is legally obligated to return a worker to work and may be subject to receive penalties for non-compliance, but no similar obligations and accompanying consequences for non-compliance are imposed on the workers and medical professionals upon whom the employers are dependent for the essential information required to fulfil their obligations.

Experience rating. Bill 165, through section 28, proposes major amendments to the act pertaining to experience rating programs. The current experience rating programs have met their objectives of reducing the frequency and severity of workplace injuries and enhancing the level of individual employer accountability by rewarding or penalizing employers based on results. The Minister of Labour himself confirmed in his August 22, 1994, statement that "in the last few years the average duration of short-term claims has fallen." This period, it is important to note, coincides with the expansion of the experience rating programs. The current experience rating

programs encourage positive practices aimed at accident prevention and the rehabilitation and re-employment of injured workers.

The proposed changes will alter experience rating programs from one of measuring employers' performance based on results to one of measuring processes. The proposed changes, including the new amendments proposed by the government to the standing committee on August 22, 1994, will continue to pose an unnecessary and costly administrative burden on the WCB and the employers. We maintain that experience rating must remain in its current form as a program which measures and rewards results.

Principle of an independent administration. One of the founding principles upon which the workers' compensation system was built is that of an independent administration to administer the provisions of the act. We submit that section 16 of the bill, however, compromises this very important foundation upon which the workers' compensation system was built by (a) empowering the minister to issue policy directions "relating the board's exercise of its powers and performance of its duties under the act," and (b) by requiring the board to respect any policy given to it and requiring the board to report back to the minister when such directed duties are carried out. More importantly, the government, through section 16 of the bill, is empowering itself to control the WCB and the board of directors without requiring itself to be accountable or responsible for its exercise of such direction.

The objective of the founding principle was evident. The workers' compensation system must be allowed to function independently of any government intervention. The message being conveyed by government, however, is that it wishes to control the board but is not willing to assume any responsibility for that control.

The PLMAC accord included a new governance model which was developed to ensure that the board of directors would operate at arm's length from the government. Under the accord, the government was to hold ultimate responsibility for the system. Section 16 undermines any notion of board independence and will serve to hold any new board members at the mercy and whim of the government while having to retain responsibility for any government direction given.

**Mr Nykanen:** I respect the time, Mr Chair, and I'll just make a few brief closing remarks. It's the position of the CMA that Bill 165, and in fact the entire reform process, from the transition team to the proposed appointment of a labour representative as the neutral chair of the royal commission, is nothing more than a reform package developed to assist the government in implementing its own agenda. Bill 165 represents the government's attempt to provide short-term quick fixes instead of a solution to a serious long-term problem.

Bill 165 fails to correct the spiralling costs of workers' compensation in Ontario. In fact, it provides a blank cheque for the WCB and government to expand benefits without regard to the financial impact of the changes and without accountability for those decisions.

The bill itself is legislatively flawed and will serve to be an administrative nightmare to implement.



The bill demonstrates a lack of political will or desire to implement the reforms necessary to bring the needed changes to the workers' compensation system to begin to control, with the objective of eliminating, the WCB's debt. Such a will could have been demonstrated through the adoption of the business proposals tabled pursuant to the Premier's request.

We call on the government to withdraw Bill 165 and ask that the government consider the recommendations presented by the business community to the Premier. This comprehensive package of reforms would not only meet the test of being financially sound but would do so in a fair and equitable way for both the injured workers and the employers of Ontario. The proposals should be the basis for any further initiatives in workers' compensation reform.

Thank you for the opportunity to make this presentation. If there's time, we'd be pleased to answer any questions from the committee.

**The Vice-Chair:** No time.

**Mr Steven W. Mahoney (Mississauga West):** No time?

**Ms Fiorentino:** You still have two minutes, according to my watch.

**Mr Mahoney:** You still have a couple of minutes. I've been timing it.

**Ms Fiorentino:** I timed it too.

**The Vice-Chair:** Two minutes.

**Mr Mahoney:** One question from each caucus.

**The Vice-Chair:** A very short comment.

**Mr Mahoney:** Since I have one question, let me dwell, if I might, on the purpose clause. Subsection 58(1) says, "The board of directors shall act in a financially responsible and accountable manner in exercising its powers and performing its duties." Why, in your opinion, is it unacceptable to have that in the body of this bill instead of in the purpose clause, and does that not ultimately achieve, by including 58(1), what you want to achieve?

**Mr Nykanen:** First of all, if the financial responsibility aspect is not completely enshrined in the act, we are defeating the purposes of the bill itself if it is to be financially responsible as well as providing fair benefits. If it is in the section that is in the bill itself, it imposes a financial responsibility on the board of directors itself, but it makes no reference whatsoever to any decisions that are made with regard to the bill with regard to the WCB administration or the government. If truly the intent of the purpose clause was to provide a system with financial responsibility for the entire system, then it should be enshrined right in the purpose clause itself.

**Mr Mahoney:** Thank you for your presentation.

**Mrs Elizabeth Witmer (Waterloo North):** In the return-to-work section, you mention that there's no balance in the provisions, and you specifically mention that it is silent regarding "the resources necessary to assist employers in returning workers to work." What are the resources that would be necessary?

**Ms Fiorentino:** We have to concentrate on the

employee. Employers want the worker to come back to work, but it's important that we have the details necessary to either accommodate the injured worker or modify the workplace. We need those restrictions. We need the medical information that's required for them in order to bring them back as quickly as possible. We do want them back as soon as possible.

**Mr Will Ferguson (Kitchener):** I have one question. You've suggested on many occasions, in fact many business groups have suggested, that this fails to meet the test of being fiscally responsible. Yet when you compare this bill with the PLMAC accord that was agreed upon originally but later fell through when business decided to walk, when you compare the major components, such as the Friedland formula, the \$200 increase to the pension, not a whole lot has changed. Could you tell me, in your view, what you would like to see that you think would essentially meet the test of being fiscally responsible?

**Mr Nykanen:** With respect, I would challenge the comment that there isn't a significant difference, because the immediate impact with the PLMAC accord on the unfunded liability would have been \$3.3 billion on the basis of future benefits. With Bill 165 as it was tabled, it reduced that \$3.3-billion saving, with one stroke of the pen, down to \$700 million, and I would submit that that is a pretty substantial amount.

1030

**Mr Ferguson:** But did they use—

**The Vice-Chair:** Thank you, Mr Ferguson.

**Mr Ferguson:** But he didn't answer the question.

**Mr Mahoney:** Well, excuse me. I'll have another go.

**The Vice-Chair:** We don't have time, Mr Ferguson.

**Mr Mahoney:** It didn't bother you yesterday when he didn't answer my question.

**The Vice-Chair:** On behalf of this committee, I'd like to thank the Canadian Manufacturers' Association for bringing us their presentation this morning.

UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCALS 175 AND 633

**The Vice-Chair:** I call our next presenters, from the United Food and Commercial Workers International Union, Locals 175 and 633. Good morning and welcome to the committee.

**Mr Herb MacDonald:** My name is Herb MacDonald. I am the benefits coordinator for Locals 175 and 633.

**Mr David Turnbull (York Mills):** Excuse me, Mr Chair. Are we now muzzling people who have expert opinion, and then we're getting back people who've been here before?

**Mr MacDonald:** I have not been here before, Mr Chairperson. I was here as an assistant with the Canadian director of the United Food and Commercial Workers.

**Ms Sharon Murdock (Sudbury):** What about Mr Cryne yesterday? I mean, excuse me.

*Interjections.*

**The Vice-Chair:** Order, please. Please proceed.

**Mr MacDonald:** If I may start again, I was here before, to clarify the record. I was here as a resource

person with the Canadian director of the United Food and Commercial Workers, and the records will show that I didn't make a comment on his presentation. Any comments that were made were by another member of another one of our unions, Pearl MacKay. Having said that, I'll get on with my presentation.

The local I represent, Local 175 of the United Food and Commercial Workers, is the largest in the UFCW. We represent some 40,000 members. Our members work in retail stores, meat and poultry packing plants, hotels, restaurants and clubs, hospitals, home care, department stores and beverage as well as the brewing industry.

Repetitive strain injuries are the most common injuries our members suffer, as most of our jobs are extremely repetitive in nature. For example, one of our poultry plants processes over 200,000 chickens per day. Workers work shoulder to shoulder, performing the same job hour after hour, day after day.

Our members in the health care sector continue to suffer back, shoulder and neck injuries, as well as cuts and bruises, and many times violent attacks. Many of these injuries are preventable, simply by supplying appropriate lifting devices and/or the necessary help to lift a patient.

Cashiers: I would invite you to stand and watch the repetitive movements performed by cashiers the next time you shop for your groceries.

The diversity of our organization and the fact that we have members across the province has given us the opportunity to work with local and regional offices of the Workers' Compensation Board in Ontario.

We believe that cooperative rehabilitation programs and the injured worker's successful return to work must be a priority. Bill 165 is intended to provide earlier return to work for injured workers, protect the most financially vulnerable workers, at the same time ensuring the future financial viability of the system. For this, we compliment the NDP government for bringing this bill forward.

Our experience in rehabilitation programs, returning injured workers to work, clearly indicates they can only be successful when there is cooperation by all parties: the employer, the union, the injured worker and the attending doctor. Medical information should only be provided as it relates to the medical restrictions the worker has as a result of the compensable injury. Non-diagnostic medical information should not be provided to the accident employer. Rehabilitation of injured workers must be a priority if the system is to succeed.

We support and welcome the new bipartite governance structure of the board of directors, although we have some concerns about the chair of the appeals tribunal as a non-voting member of the board of directors and recommend that subsection 56(2) be deleted. The chair of the appeals tribunal should not be a non-voting member of the board, as the appeals tribunal is supposed to be a separate and impartial body. Even with non-voting status, the chair of the appeals tribunal could use the position to lobby and influence the actions of the board. This section provokes questions of the impartiality of the appeals tribunal.

Subsection 147(4), permanent partial disability supplements: Bill 165 provides the addition of subsection (14), which provides that the board shall pay an additional \$200 per month to a worker receiving an amount awarded for a permanent partial disability.

The UFCW is deeply concerned that this amendment does not cover a small group of workers who were over 65 when Bill 162 was passed. In particular, subsection 147(4) excludes these workers, who are now over 70 years old, and consequently will be denied the Bill 165 pension increase because of their age. A pension increase for this small group of workers should therefore be included under Bill 165. This is a matter of justice and equity.

The UFCW welcomes this proposed pension increase, which will affect approximately 40,000 workers with disabilities who are unemployed and were injured prior to 1990. At the end of 1992, over 16,000 workers in manufacturing were receiving permanent partial disability supplements. This is of importance, given the significant number of workers the UFCW represents in manufacturing.

Replacing "industrial disease" with "occupational disease": In the past, we have often heard of industrial disease that developed gradually over time, such as lung disease that affected workers such as miners. Today, however, people employed in health care, retail food stores, meat packing, food processing and various other industries face repetitive strain injuries, or RSIs, which can be severely disabling. The UFCW hopes the term "occupational" will be adopted to more accurately reflect the changing workplaces across the province. In addition, with the update of terminology, people will begin to recognize occurrences such as repetitive strain injuries. The UFCW has fought to reduce the hazards of RSIs in thousands of workplaces across Canada. Industry and government must take immediate steps to improve workstation designs and review working conditions and procedures to prevent these disabling injuries.

Prevention, however, is not enough. We need fairer compensation policies so that our injured workers are not left uncompensated. We also need to enforce ergonomic standards which would guarantee our members a truly safe environment.

#### 1040

Section 54, obligation to re-employ: Subsection (11.1) enables the board, on its own initiative, to determine whether the employer has fulfilled its obligation to the worker under this section. This section will enable the board to be proactive in assessing penalties on employers who do not fulfil their obligation to re-employ an injured worker. This subsection will be especially important for non-organized workers.

The UFCW believes, however, that a clarification is necessary in this section. It should be clearly stated that any board hearing is a worker's hearing, not the board's or the employer's. Failure to clarify the legislation in this way could potentially leave workers unaware that a determination is being made that could have an impact on them. Workers could be left without access to relevant information or representation. It should also be clarified



who at the board makes the determination and whether it can be appealed.

A further clarification is necessary regarding use of the word "determination" in subsection (11.1). The UFCW recommends the following amendment: Replace the words "may determine" with "shall decide."

The act states in subsection 72(2) that decisions of the board shall be communicated in writing and they are appealable. The board also frequently makes decisions which are not appealable. For those reasons, the UFCW believes the correct words in subsection (11.1) are "shall decide" rather than "may determine." Similarly, in subsection 54(11) of the act, the word "determination" should be replaced by the word "decision."

Subsection 148(1), indexing factor: The UFCW neither endorses the Friedland formula—I even hate to say it—nor anything else that would reduce benefits on its own or unilaterally, especially to the poorest of poor workers in the system. None the less, the UFCW recognizes that this formula was the result of the negotiation process in developing the proposed amendments to this legislation.

The board's income is tied to inflation. Therefore, if inflation rises to 10%, then wages will eventually rise by the same amount, which will ultimately be reflected in the board's income. We therefore recommend that the 4% cap be removed.

In conclusion, we would like to congratulate the NDP government for proposing changes to the Workers' Compensation Act. Many of these proposed changes are long overdue and will address some of the serious problems and shortfalls in the current system.

We strongly feel the changes in Bill 165 will strengthen employers' obligations to rehire injured workers and increase the pensions of workers injured prior to 1990 so that injured workers and their families can live in dignity.

The Workers' Compensation Board's funding is the responsibility of employers, not injured workers and not the taxpayers of Ontario. We are confident a bipartisan board of directors will change the adversarial system we have seen over the last number of years.

We also welcome the creation of the royal commission to examine the long-term financial implications of the workers' compensation system, including universal disability insurance and entitlement.

On behalf of the United Food and Commercial Workers, I would like to thank you for the opportunity to address this committee.

**The Acting Chair (Mr Daniel Waters):** Thank you, sir. We have about two minutes per caucus.

**Mr Mahoney:** I'm delighted that I've finally found something I can agree with from what I perceive to be the NDP side of this debate. Thank you for your presentation. I think you're bang on about WCAT being on the board. In fact, it was a recommendation that I made in my report and I'll be making an amendment here.

But I would ask you: One of the things I've always thought was important was that we take away the political interference that exists at the board, both in the appointment to the board of people like the chair, Mr

Di Santo, and others in the past, always appointed former MPPs, that type of thing, but also in relationship to WCAT. I go a little bit further, and I wonder if you'll go that distance with me, in recommending that WCAT be established as a quasi-judicial body wherein politicians and government officials and bureaucrats would literally not be allowed to interfere, just like we're not allowed to interfere in the court system. It would be truly independent, not able to determine or set policy for the WCB in its decisions, but simply required to enforce the act and make a decision based on a quasi-judicial submission and reporting system. So they wouldn't be on the board, they wouldn't have any influence over board policy, they wouldn't be able to lobby, as you have said, but in return, we, all of us—the royal "we," I guess—would also not be able to sort of stick our paws into the WCAT process. Would you agree with that?

**Mr MacDonald:** I'm afraid I'd have to do a bit of thinking about that, Mr Mahoney.

**Mr Mahoney:** You're close.

**Mr MacDonald:** I'm not sure I would go that far. I am afraid I'm not prepared to answer that question.

**Mr Mahoney:** Are you saying, then, that you think it's right that we as politicians should be going upstream, up the river, to WCAT and using political influence to attempt to enforce decisions? You've said that WCAT should not be on the board, that they should be independent, that they should not have influence over the WCB board of directors' policies. Therefore, in return, how could it be that we—again, the royal "we." It's not just MPPs; it's anybody who's involved in the system.

So the people who would go to WCAT would be the injured worker and/or their representative. That could be a lawyer, that could be a union representative, that could be anyone who is an advocate, shall we say, on their behalf, but it would not be the local MPP's office. Frankly, it would save our offices a tremendous amount of work, but aside from that, it would truly set WCAT up as independent, as quasi-judicial, and I think you've gone like 90% of the way. I'm not trying to trap you into something. It's just that it seems—

**Mr MacDonald:** I can appreciate what you're saying. I would hope the royal commission would address that particular issue.

**Mr Mahoney:** I'll be moving an amendment to this.

**Mrs Witmer:** Just one brief question. You mention the obligation to re-employ and you seem to be quite happy that the board on its own initiative now can determine whether or not the employer has fulfilled his or her obligations. As you know, that's of concern to the employer community, because certainly it is an intrusion into the activities.

What's happened in the past that would make you believe this is absolutely necessary?

**Mr MacDonald:** The problem with the system as it stands is that there's no determination made—and I pointed out, by the way, that this would be extremely useful for the non-organized sector, where the employer simply does not take a worker back; the worker doesn't have representation and doesn't know their rights and



therefore doesn't know the proper procedure to go through so that a determination will be made on their behalf. They also don't have representation if they do file a section 54.

In my experience with the mediation officers of the Workers' Compensation Board, and that's on a daily basis, when we deal with mediation officers, an agreement can be reached very, very often without going to a hearing, and of course when you stop something going to a hearing, you save a lot of money for the system.

**1050**

As I said in my opening remarks, I represent a local that has 40,000 members. We have a great number of appeals, and in the past three years we've done two section 54 hearings out of an estimate of maybe 150 applications. That's a big saving to the system. I believe this early intervention by the board in making a determination is very important.

**Mr Paul Klopp (Huron):** I appreciate your coming forward today to bring up issues. My particular area is subsection 147(4), permanent partial disability supplements. Your comments need to be looked at. In fact, I thought you were going to talk about something else in this area. Wayne Lessard, a colleague from Windsor-Walkerville, phoned me this morning to ask a question. One of his constituents talked to Pat, who is really affected by this and is glad to see there is some recognition. However, he was concerned a little bit. Because of being on disability and of losing his job etc because of the accidents or whatever, he is in other areas like family benefits, and what he was concerned about was clawbacks. I've been told that we are recognizing that.

I guess my question to you is, does your organization realize that, recognize that we don't want to have clawbacks? People already have enough problems, and we recognize that, and things like family benefits won't be clawed back. Are you aware of that?

**Mr MacDonald:** Yes, that certainly was part of the brief that was done by Tom Kukovica, our Canadian director. We are very concerned, particularly in the areas of social services, when people are on social services, that there would be clawbacks, and we don't believe it should be tied in.

**Mr Klopp:** The government has recognized that.

**Mr MacDonald:** The government has to recognize it.

**The Vice-Chair:** On behalf of this committee, I'd like to thank Locals 175 and 633 of the United Food and Commercial Workers for their presentation this morning.

**Mr Randy R. Hope (Chatham-Kent):** While the next presenters come up—and I don't know if the information is available or not through the Workers' Compensation Board—I'm wondering, of the number of appeals in a year, how many would be through a claims adjudicator's decision or through an employer's rebutting the ability to pay. I'm wondering, if those numbers are kept at the WCB, how many of the appeals are caused by employers saying, "No, the accident didn't happen here," or how many of them are because of a claims adjudicator's decision. I'm hoping I'm clear enough for the researcher.

**The Vice-Chair:** Okay, he'll discuss it with you.

# AJAX-PICKERING BOARD OF TRADE WHITBY CHAMBER OF COMMERCE OSHAWA CHAMBER OF COMMERCE

**Mr Andy Emmink:** My name is Andy Emmink. I'm the secretary of the Ajax-Pickering Board of Trade and, as the submissions before the committee members will indicate, I'm also here on behalf of the Oshawa Chamber of Commerce and the Whitby Chamber of Commerce. We had intended that our board of trade president, Doug McKay, be here with me as well this morning. We came down separately and I suspect he's stuck in a cavalcade of taxis on the parkway somewhere. In any event, he hasn't arrived. He may be arriving while I'm speaking.

First of all, let me thank the committee for this opportunity to hear our concerns. I'm fully appreciative of the fact that you'll be hearing from the Ontario Chamber of Commerce, and much of what I'm going to be saying to you this morning will be in support of what the Ontario chamber will be telling you and what the business steering committee has already told you. So I guess it's an exercise in adding weight to those learned views.

Between us, the Ajax-Pickering Board of Trade and the Whitby and Oshawa chambers represent almost 1,000 business enterprises in the region of Durham. Our membership ranges from "homepreneurs" to multinational corporations with many hundreds of employees. We form a substantial portion of the manufacturing and industrial base in Ontario from which the Workers' Compensation Board of this province draws its revenues. Similarly, our employees draw substantial benefits from the protection that the Workers' Compensation Act offers.

I think it's fair to say that all of us—that is, management and our employees and their families—have a vested interest in the wellbeing of a system that provides income replacement and health care and vocational rehabilitation services to our injured workers. We also believe it's fair to say that a system that provides such a comprehensive benefit package to such a large workforce has to be managed with the utmost degree of financial responsibility. As with any corporation with assets in excess of \$6 billion, we firmly believe that those who manage the corporation must be accountable for doing so in a fiscally responsible way.

To us, the alarming increase in the shortfall between the board's assets and its liabilities over the past decade indicates that the desired degree of fiscal responsibility has been lacking and that remedial action is now long overdue.

In 1985 a Conservative government attempted to reform the system with Bill 101, and what we saw there was the creation of a new board of directors and the creation of the Workers' Compensation Appeals Tribunal.

Then in 1989, another government, a Liberal government, tried to reform benefits by getting rid of the meat-chart approach to compensating for permanent disability and replacing this with a new dual-award system to recognize both economic and non-economic consequences. This approach, we were told at the time, was going to be revenue-neutral. With the new approach to aggressive rehabilitation, the WCB's rehabilitation strategy and

decentralized claims administration, we were assured that benefit costs would decline and that service delivery was going to improve. Well, that didn't happen.

It's now 1994 and the New Democrats have an opportunity to bring about much-needed reforms in a system that by all accounts is technically bankrupt. Bill 165 purports to be this government's answer to charting a new course for the WCB and one that is destined, according to the Minister of Labour's introductory comments, to help restore its financial health.

As committee members may know, the Ontario Chamber of Commerce and our board of trade were active participants in the process of bringing reform to the workers' compensation system in this province. Along with many other volunteers from the business community, we devoted many hundreds of hours over the summer and into the fall of 1993 and beyond that in pursuit of solutions that the Premier had asked his labour-management advisory committee to develop. The Premier had asked that we complete this process by the end of October 1993, and we did. On November 17, 1993, the Premier received a complete set of proposals which, had they been implemented, would have eliminated the unfunded liability by the year 2014, would have secured future benefits for injured workers, would have improved vocational rehabilitation, and, I guess most importantly, would have placed the system on a secure footing while improving the climate for investment in Ontario's economy.

For reasons that we don't fully understand and that were never made clear to us, the government apparently ignored the proposals and requested instead that business and labour provide a consensus package of reforms. Failing that, we were told, the government would act to develop its own solutions.

It became clear to both sides that an ultimatum of sorts had been issued by government. This led to a series of meetings between business and labour, and in March of this year those meetings culminated in the development of an accord. While both parties weren't, I guess, unanimously in support of all of the terms of the accord, it was nevertheless a document that both sides could live with. I think it's of some significance that the government was initially, or at least seemed to be, receptive to the accord, and that even the Minister of Labour indicated that it was a step in the right direction.

Unfortunately, that became more or less the high water mark for that document, because within a matter of days it became apparent that the government had placed its own interpretation on the terms of the accord. That, plus the stated intent of the government to appoint the head of a union to chair the royal commission, led to substantial disintegration of support for the accord within the business community.

While the Ajax-Pickering board and the Oshawa and Whitby chambers continue to be of the view that the November 1993 proposals are sound and that they ought to form the basis for any legislative reform, we have to tell you that we too can live with that accord. This provided what we believe to be an important, indeed a vital, underpinning for a healthier, more fiscally sound

and responsible workers' compensation system. For that reason, we feel it would be useful to review very briefly the highlights of the accord that business and labour reached.

#### 1100

First of all, it provided more effective governance. There was going to be a bipartite board of directors, two representatives of the general public and an arm's-length relationship with government. The chair would have been appointed on a recommendation from business and labour and the president would serve as a non-voting member of the board and would be hired by the directors. The model that was proposed would hold the government ultimately accountable for the system.

The accord also guaranteed financial responsibility. The financial responsibility framework was really the cornerstone of the reform package that was put forward. The accord achieved agreement that a financially responsible framework for the decision-making and operation of the system was essential, and that the ultimate accountability for the system rested with government. Equally important, it provided a purpose clause which made it clear that in the act itself, any proposed change to benefits, services, programs or policies under the act would be thoroughly analysed in order to evaluate the overall consequences of the proposed changes on workers and employers. The results of that analysis would then be provided to government.

Next, the accord would have co-ordinated interactions between WCB-funded agencies. Through the establishment of a WCB advisory committee, there would have been a mechanism for liaison and coordination of activities among the various agencies that receive funding from the WCB. This would have served to better allocate scarce resources and avoid duplication of programs.

The accord also put forward an indexing formula with special consideration for certain groups. By adopting the Friedland formula, the accord guaranteed that workers would continue to receive a measure of protection from inflation. At the same time, there was an attempt to recognize particularly vulnerable workers, provided that any such recognition have regard for the purpose clause and the financial responsibility framework.

The accord would also have improved workers' return to gainful employment. It achieved agreement that the board should be enforcing the current statute as it relates to re-employment of injured workers. Labour, we understand, continues to feel that the existing provisions aren't sufficient, and in the accord there was essentially an agreement to disagree on that point. Nevertheless, there was agreement that there should be a program that would encourage greater re-employment of workers through financial incentives which would augment the existing experience rating programs. To ensure that approach would be successful, the accord also went the further step of requiring the WCB to offer training and other resources to employers to assist them in improving their respective return-to-work programs.

The accord also acknowledged the special needs of some pensioners in receipt of pre-1990 pensions. While agreeing that there might be some workers who would



need special treatment in terms of increased monthly pensions, the determination of which of those pensioners would qualify was left to government, on the basis that whatever remedy they might develop would be mindful of the intent of the purpose clause and the financial responsibility framework.

The accord also conceded, finally, that some issues, such as possible alternative compensation models, should be left to a royal commission. Implicit in the agreement that a study be conducted to examine workers' compensation alternatives was that any royal commission so engaged would be comprised of a neutral chair and flanked by appointees from business and labour.

In our submission, that accord is a very significant achievement. I think it's rare for business and labour to come to terms on an issue, and that this was achieved in a major public policy issue is noteworthy indeed. It's an indication of the good faith and the hard work that the participants brought to the negotiation sessions.

Given this background, perhaps committee members can appreciate the consternation we felt when it became clear that the government had no intention of adopting the reform agenda to which both business and labour had agreed. Our board of trade and other stakeholders in both the business and labour communities were deeply disappointed in the package the government finally introduced.

A lot of very careful analysis has gone into the bill, and we're convinced it fails to accomplish the objective established by the Premier last year when he asked his labour-management advisory committee to come up with solutions to the workers' compensation problem.

For example, instead of reducing the unfunded liability, it will increase it to \$13 billion to \$15 billion by 2014. Instead of imposing fiscal responsibility by means of a purpose clause, it provides the authority to expand benefits and coverage without regard for impact on the system. Instead of assisting older workers who are in genuine need of additional assistance, it further stresses the financial health of the system by awarding additional benefits without any kind of a needs analysis.

Rather than providing employers with more meaningful incentives for reducing workers' compensation costs, the bill introduces more complexity, imposes additional punitive measures and seems to replace experience rating altogether with a system that recognizes a process rather than recognizing results.

By failing to come to grips with the question of how to fund those who would need special consideration under the revised indexing provisions, the bill once again rides roughshod over any semblance of fiscal responsibility.

While the accord found it sufficient for the WCB to enforce existing re-employment provisions in the act, Bill 165 imposes further penalties in administrative complexities. By its treatment of the return-to-work provisions, the bill is moving the WCB away from the role of being an adjudicative body to an agency that seems to be focusing on return to work and mediation as its primary function, and that wasn't a part of the accord.

Finally, instead of creating a more arm's-length relationship between the government and the WCB the

bill, by authorizing the government to issue policy direction to the WCB's board of directors, undermines the very principle of independent administration that was the cornerstone of the system designed by Justice William Meredith about 80 years ago. To make matters worse, the power to direct policy is not balanced by any increase in accountability on the part of government, so that government would be free to dictate a policy which could have disastrous financial consequences on the system without having to answer for it.

In addition to those fundamental departures from the accord, the bill includes a number of other disturbing features which, we submit, are at best impractical and at worst, are administratively impossible to implement. For instance, the bill removes the president of the WCB from membership on the board of directors and yet the chair of the appeals tribunal continues to have a non-voting member status. The protection of the crown is removed for board employees and the board of directors, yet the crown has the right to impose policy directions on the board. In terms of the merit rating system, the board has already acknowledged that would be impossible to administer. So this committee has a real challenge.

While we don't have any desire to speculate as to the government's motives, it's clear that instead of adopting the accord as a package as was intended by those who developed it, there was instead some selective picking and choosing going on. To our way of thinking, that's like trying to build a 10-storey building and erecting only the third and the sixth and the eighth floors. Without all the levels in between, it's going to be impossible to erect that structure. The accord was only an accord as long as all of the component features were accepted.

We'd ask you to give some very serious thought to the damage that the government's approach has caused. To begin with, everyone loses. Employers are going to continue to face cost increases, workers are going to continue to face uncertainty about future benefits and perhaps worst of all, neither party has any faith left in the system itself. Unless members think this is simply alarmist thinking on the part of the business community, let me assure you the crisis is real.

The unfunded liability is real and it has to be paid one day. It's irresponsible and it's destructive to simply pass that debt on to the next generation of employers. There has been an increase of 57% in the portion of employer assessments allocated to retiring the unfunded liability. Assessment rates have increased by almost 200% since 1980, in spite of the fact that accident frequencies have declined by 30% since 1989.

The deplorable state of the board's funding has been a factor in reducing our credit rating. This acts as a disincentive for businesses who might consider relocating or establishing their operations in our province.

We now face a debt of about \$11.5 billion. In 1980, it was less than \$1 billion. Projections by qualified actuaries suggest that this could reach \$31 billion by 2014. If the costs of future economic loss awards are not contained, it could go as high as \$52 billion.

I think it's a fact that the system is technically bankrupt now, in that cash flow shortages required it to sell



assets last year to meet operating expenses. Cash flow projections to the year 2014 indicate that at that time there wouldn't be any assets left, but that the board would still face benefit payments of some \$7.5 billion.

1110

Last week, we learned about the collapse of Confederation Life. It was the fall of a giant, according to Maclean's an insurance organization with assets of over \$19 billion. The WCB, as committee members know, has assets of only \$6.5 billion, but liabilities of twice that amount. So ask yourselves, as you listen to those of us appearing in front of you, how different is the Confederation Life disaster from the situation now facing the WCB? Keep in mind that, in the case of Confederation Life, at least there was an emergency fund created in 1989. Where is the WCB's emergency fund? As you well know, the only fund available to bail out the WCB is the consolidated revenue fund, and those are our tax dollars. Consider then the catastrophic effect that a bailout of that nature would have on our credit rating and our ability to sustain a climate for economic development.

As you consider Bill 165, ask yourselves, please, what does this bill do to protect the long-term financial interests of those it is designed to protect, the injured workers and the employers of this province? Ask yourselves too, please, which is more likely to bring about a healthier and more fiscally responsible system, Bill 165 or the business caucus proposals and the accord agreed to by the business and labour stakeholders in this province?

We would ask that, in the case of this bill, you put aside partisan considerations and have the courage and the foresight and the wisdom to withdraw the bill in favour of legislation that truly reflects what your constituents have determined to be in their own best interests.

And if, given the political realities—and believe me, we are sensitive to the political realities in which members find themselves—you find you can't withdraw that bill, then at the very least re-establish the purpose clause as it was agreed upon in the accord. That one single element will have a more far-reaching benefit than anything else, short of complete withdrawal, and we put it to you that's a feasible, practical and politically acceptable compromise.

On behalf of our members, we appreciate this opportunity to offer you our views and our suggestions. We sincerely hope the members of the committee will have the wisdom to appreciate the very real danger of permitting Bill 165 to be enacted and we implore you to ensure that it is withdrawn. Instead, as requested by our umbrella organization, the Ontario Chamber of Commerce, we urge that whatever legislation is introduced be structured upon the proposals offered to the Premier by the business steering committee of his labour-management advisory group last November and those agreed to by business and labour stakeholders last March.

Thank you very much. If we have time, I'll try and answer any questions you might have.

**The Vice-Chair:** We're just over time, so one quick comment from each caucus.

**Mr Mahoney:** Subsection 15(3.2) of the act reads:

"The board shall evaluate the consequences of any proposed change in benefits, services, programs and policies to ensure that the purposes of this act are achieved." Do you have concerns about the interpretation of that without the amendment to the purpose clause, and what are those concerns?

**Mr Emmink:** Absolutely. The purpose clause by itself has no regard whatsoever for impacts, so that if they evaluate only in respect of the purpose clause as it's currently stated, it's going to have a complete and total disregard for financial consequences.

**Mr Turnbull:** Just with respect to your comment: "The deplorable state of the WCB's funding has been a factor in reducing Ontario's credit rating. This acts as a disincentive for businesses who might consider relocating or establishing operations in our province." We've heard several presentations from labour who have suggested that in fact there's nothing really to worry about with respect to the funding in WCB. Any comment on that?

**Mr Emmink:** In response to labour's comment, I can only say that labour's comment obviously didn't carry a whole lot of weight with the Dominion Bond Rating Service, who in fact did reduce our credit rating last spring, and they mentioned the board's unfunded liability as one of the factors in making that decision.

**Ms Murdock:** Thank you. It's very well done and I'm glad that you put the accord so succinctly, because I think it shows, contrary to what you're trying to say that in many cases it is similar, but I would like to say that on page 2 where you put, "Those who manage the corporation must be accountable for doing so in a fiscally responsible way," I agree with you wholeheartedly. But I guess where we disagree is that subsection 58(1) of the amendments, the section that's being quoted most frequently in relation to the purpose clause, just says, "The board of directors shall act in a financially responsible and accountable manner in exercising its powers and performing its duties." And I think it covers that.

**Mr Emmink:** I think it's certainly a step in the right direction. I wish they would have gone further and kept the purpose clause the way it was proposed by the business steering committee.

**The Vice-Chair:** I thank the Ajax-Pickering Board of Trade, Whitby Chamber of Commerce and the Oshawa Chamber of Commerce for giving us their presentation.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION,  
LOCAL 595

**Mr Barry Weisleder:** Good morning, members of the committee. My name is Barry Weisleder and I'm an executive board member with the Ontario Public Service Employees Union, which represents over 100,000 workers in the Ontario public service, the broader public service and the community college system. I'm also president of OPSEU Local 595, which represents nearly 1,000 substitute teachers at the Toronto Board of Education.

My presentation will focus on the de-indexation feature of Bill 165. In this sense I am expanding on the brief already presented by OPSEU. I am not an expert or a technician in the area of workers' compensation, but in my capacity as a local union president, I frequently work

with members who have suffered physical injury on the job and then experience frustration in dealing with the Workers' Compensation Board. They complain about the slowness of processing claims, the impersonal attitude they face as individuals, and the uncaring and sometimes unscientific opinions of WCB doctors who say they are fit to return to work, when the client's personal doctor says, "This is premature, inappropriate and dangerous."

I just referred to physical injury, but there's another huge dimension to work disability and that is work-related stress. I suspect that more substitute teachers, whom I represent directly, suffer interruption of work due to work-related stress than to physical injury. Not only is our occupation inherently more stressful than many occupations, especially in the field of education, but also like many poorly paid on-call or part-time employees lacking supplementary health benefits, and forced to work at two or three jobs simultaneously in order to scratch out a living in our jobless recovery, we are vulnerable to work-related stress.

Work-related stress is a growing phenomenon across society and an escalating cause of loss of productivity and of human suffering, yet the WCB act does not recognize work-related stress, and Bill 165 does not even address this glaring omission. This fact alone would be sufficient reason to take most of Bill 165 back to the drawing board and proceed with the modest return-to-work improvements and the \$200-a-month increase to the pre-1990 injured. But, alas, there is an even more compelling reason to redesign the bill, and that is its de-indexation feature.

The bill giveth bipartite governance to the system and it giveth the paltry \$200.00-a-month increase to a limited number of people injured before 1990, but the bill as a whole taketh away much more than it giveth. Bill 165 takes away full cost-of-living protection from the majority of injured workers receiving compensation for permanent disabilities. Instead, it uses the Friedland formula, less than three quarters of the cost-of-living increase but also no more than 4%, no matter how high inflation goes. Using full CPI indexing, a \$200-a-month pension awarded in 1977 would be equal to \$576.30 today. With the formula in Bill 165 it would be worth only \$324.

1120

Here's another way of looking at it. Assuming a modest inflation rate of 2% a year, an injured worker's pension that is worth \$100 a month now would, in 20 years, be worth only \$73. A higher rate of inflation would, of course, lower the real worth of the pension even more.

If you look at the overall economics of this legislation, it is clear that the government is reforming the WCB mainly on the backs of injured workers.

The government's own figures make the same point. De-indexing pensions, it figures, will save the board \$21.6 billion over 20 years. That's what injured workers, in effect, are contributing to this reform.

On the other hand, encouraging employers to rehire injured workers will save, over 20 years, one tenth of that amount, \$2.1 billion. That's the employers' contribution.

We could speculate as to how much could be saved through increased inspection and more rigorous enforcement of workplace health and safety regulations. The incidence of worker injury is reduced by making the workplace safer. Unfortunately, staffing enforcement conflicts with the government's social contract and the government's expenditure control program, although apparently building a new multimillion-dollar palace for the WCB, a building now proving to be too small for the board's needs, somehow escaped the government's expenditure control program.

The de-indexation of injured workers' benefits is a grievous assault on the rights and living standards of all workers. It is yet another betrayal of working people by the so-called labour party in government in Ontario. But any member of any party presently in the Legislature who votes for a bill that contains de-indexation of pensions should hang their head in shame because such a vote would conflict dramatically with the position taken by all three parties as recently as December 1985 on this very issue.

I'd like to quote to you views expressed by spokespeople from all three parties in December 1985, because these remarks make the case more effectively than I can for the establishment and maintenance of full indexation of benefits.

The Liberal Party position was presented, of course, by the Labour minister, Bill Wrye, at the time, December 17, 1985. He says:

"On the occasion of the last increase in workers' compensation benefits, July 1985, I indicated that it was the intention of this government to undertake an examination of the implications of permanently indexing workers' compensation benefits and, as part of that examination, to consult with the various interested constituencies.

"Later today I will be introducing for first reading a bill that is the result of those endeavours. It reflects the commitment of this government to injured workers. The bill enshrines permanent indexation and implements an immediate increase in benefit levels as a transitional measure. In addition, it will grant a substantial increase in survivors' benefits for claims that originated prior to April 1, 1985.

"The measures being proposed by the present government will ensure that injured workers will no longer have to worry about whether and to what extent their benefits will be adjusted. In future, all claimants will be assured, as a matter of statutory right, of an annual adjustment which takes into account the effects of inflation.

"The pain, the loss, the disruption and the disorientation caused to a worker and his or her family by a disabling injury is suffering enough. We should never add to the suffering the indignity of having to come cap in hand to the steps of the Legislature angrily demanding merely the protection of compensation benefits from the annual rate of inflation. From this day, injured workers will never again be in that humiliating position."

On first reading of the bill, December 19, 1985, the Minister of Labour spoke again:



"I do not want to speak at length, but I do want to put this on the record, lest even today, as 1985 draws to a close, there be those who oppose the concept of indexation and do not recognize the propriety of this action. Let me first put on the record that Ontario is not unique. Today there are six jurisdictions—British Columbia, New Brunswick, Nova Scotia, Quebec, Saskatchewan and the Yukon—that have formal indexation of workers' compensation benefits in respect of permanent disability. All but New Brunswick use the consumer price index; New Brunswick uses the average industrial wage. Four of those six jurisdictions—British Columbia, New Brunswick, Quebec and the Yukon—also index temporary disability benefits on a similar basis, as Ontario will.

"It is important that we are not unique, we are not the first. It is certainly an appropriate matter, we believe, that Ontario should join what is now a clear majority of the provinces that believe this matter is long overdue.

"In speaking on the theory of indexation and why we ought to go to protection for injured workers against the ravages of inflation, Professor Weiler said, and he was speaking about pension: 'In the final analysis, the point of this pension, the injured worker's pension, 'was to establish the disabled worker's rights to share in the real goods and services generated by the Canadian economy. Inflation causes a general increase to occur in the money price of that same basket of goods and services.'

"This is crucial."

The Progressive Conservative position expressed by Phil Gillies on Bill 81 when it was introduced:

"As members of the assembly, we all have to share a very deep concern about the people in this province who labour day after day in dangerous occupations and who put their lives on the line, in some cases, when they go to their place of work every day.

"I believe Ontario has recognized for many years the need for income protection, for benefits and for pensions for people who are placed in such situations."

Again Mr Gillies is quoted:

"After due consideration, I am very pleased to be able to inform the House our party will be supporting Bill 81 and we believe the time has now arrived for annual increases, however determined, to be granted the clients of the Workers' Compensation Board, not as a matter of annual legislative review but as a matter of right and as a result of automatic increases. I believe this decision finds a great deal of support among members of the Legislature and indeed has the support of our caucus."

Now we come to the New Democratic Party position. Premier Bob Rae had this to say at that time:

"I wanted to participate in this debate because of my own personal feelings about the questions of workers' compensation and reforms to the act. I think I have mentioned in this House on other occasions that 11 years ago, in 1974, I was carted from the front of the Legislature by one of the members of the local police constabulary because I was involved in organizing and participating in a march and demonstration of the Union of Injured Workers.

"If my memory serves me correctly, it was in the

winter, in November and December 1974, that we began systematic demonstrations at Queen's Park and across the province to get reform of the legislation.

"I take pride that the government has finally come around to our point of view. I take pride, as I have had occasion to do many times this week, that finally the government is moving in areas in which we have been urging it to move for many years.

"I am delighted the members of the other parties have finally seen the light, and that literally 10 or 15 years after the New Democratic Party began moving this amendment to the Workers' Compensation Act we finally have the change. We finally have other parties coming on side, indicating that they too support the principle that inflation should not eat away at the pensions of injured workers."

**Mr Mahoney:** Who said that?

**Mr Weisleder:** Bob Rae.

**Mr Turnbull:** Remember the immortal words, "That was then; this is now?"

**Mr Weisleder:** Ontario Treasurer Floyd Laughren—I believe he's still a member of the government—said the following on December 20, 1985:

"I am not sure I thought I would ever see the day when we would be indexing injured workers' benefits." I wonder what he thinks of this day. "I am certain of one thing, that we would never have seen the day if the government had not changed.

"The Conservatives had an unbelievably paternalistic attitude towards injured workers. If workers wanted an increase, they could come before the Legislature with a tin cup and plead for it once a year. There is no question about that; history speaks for itself. I am very pleased we are able to be here today debating this very bill.

"I do believe some credit should be given to the injured workers' groups, the Association of Injured Workers' Groups, the Union of Injured Workers and all the other organizations, the legal aid clinics etc that made a tremendous effort.

"There has never been a question in my mind, if I could paraphrase what the member for High Park-Swansea (Mr Shymko) said, that the way one judges the civility of a society is how it treats its people who are not so young and not so swift. Injured workers are a good example of that. We simply must provide for them the standard of living to which they are entitled.

"I have always felt it was hypocritical of society to say to workers: 'You are engaging in something we consider to be good, namely, the work ethic. But if as a result of engaging in that work you are injured, society is going to penalize you for having believed in the work ethic so strongly.' That is why I am very pleased about this change.

"As a long-time member and present chairman of the standing committee on resources development, I have heard the argument about the unfunded liability; and while I do believe it is a problem, I think it will be addressed most appropriately when employers in Ontario collectively manage to reduce the accident rate to more civilized levels.



"I am pleased to be able to engage briefly in this debate and to commend the minister for having brought this bill through his caucus."

1130

Then Bob Mackenzie, currently the Labour minister, said on the same day:

"With regard to the bill itself: While I am pleased to see it, what we have really done here today is to answer a commitment I have heard members of all parties make to injured workers for far too long, a commitment based on just a little bit more fairness, a commitment that should have been fulfilled a long time ago. However, I am extremely glad to see it put in place here today and I do support Bill 81."

Then Mr Ross McClellan:

"For many of us, this is a red-letter day, to see an act in this Legislature that brings in an automatic cost-of-living increase after so many battles and struggles going back so many years. It is a very special moment for me and many of my colleagues.

"The question of an automatic cost-of-living increase became a symbolic focus for all the injustices the compensation system inflicted on workers in this province. Efforts to organize and fight for the rights of injured workers focused on the issue of an automatic cost-of-living increase. There are still many issues that need to be resolved and many reforms that have yet to be introduced, but it is a major victory for injured workers to have a bill passed in this Legislature which establishes that injured workers have a legal right to an automatic cost-of-living increase and do not have to go cap in hand to the government of the day to beg for what is rightfully theirs."

I would ask any member who contemplates voting for de-indexation of pensions—especially members of the New Democratic Party, because workers have lower expectations, after all, of the parties of big business—how can you justify changing your position on full indexation of workers' compensation benefits only nine years after making a sacred commitment to this principle? All three parties endorsed the recommendations of Paul Weiler, an international authority on workers' compensation, for full indexation. I understand Mr Weiler was paid, at the time, \$600 a day for his study on workers' compensation, which the government of the day adopted.

No doubt there is a fiscal crisis of government and state. This budgetary crisis is largely the result of contradictions inherent in the economic system compounded by 30 years of regressive tax changes which have relieved business of most of its previous tax burden. The solution to underfunding, in part, is to tax wealth, not working people, least of all injured workers.

I conclude by saying, proceed with the \$200-a-month increase to pre-1990 pensioners and the modest improvements in return-to-work provisions and the bipartite governance provision, but withdraw the rest of the bill. If you must, you may refer the other proposals to the royal commission that you propose establishing, but please don't reform the WCB on the backs of injured workers and don't diminish the rights of all workers by imple-

menting de-indexation. Remove your hands from the pockets of the poor. Maintain full indexation. I thank you and members of the committee for this opportunity.

**The Vice-Chair:** Thank you. Mr Mahoney. You have about a minute each.

**Mr Mahoney:** I certainly enjoyed your quotes, even though I'm sure they weren't done to entertain me or my party. But you made some very valid points with them.

I want to go back to the second point you raised, the issue of stress and your request that work-related stress be included as a compensable injury. Currently, of course, there have been awards where injury-related stress occurs as a result of witnessing an accident on the job or there's been some latitude at the board and at WCAT to improve some of those kinds of things. The concern that many people have about allowing work-related stress to be compensable is, how do you differentiate between work-related stress, society-related stress, home-related stress, whatever?

**Mr Weisleder:** I'm not a practitioner in the field, but I think there are medical authorities who could assist us with such a differentiation. I think it's possible to establish, when you experience a traumatic amount of pressure or a specific condition in the workplace, that it is identifiable and that the dysfunction that results from it can be linked to that experience or to the conditions in the workplace that brought it about. I think there are medical authorities to whom we can refer who can help us.

**Mr Mahoney:** Of course, there are also medical authorities who strongly disagree with those medical authorities who claim that they can differentiate that, and there is the nub of the problem. You have a debate going on, and we've heard it for some time, where you'll have one expert taking your side, saying that this is stress clearly related strictly to the workplace, and another expert saying that's nonsense, that you can't relate it here because there's other stress. I mean, stress is driving to work in the morning, believe me. I do it every day, coming down here. Is that something that should be compensated, stress because of traffic problems?

**Mr Weisleder:** Some forms of physical injury can be incurred on the way to work and in departure from work, but I think we can identify that certain forms of stress right in the workplace exist and should be compensated.

**Mr Mahoney:** Regardless of the cost?

**Mr Weisleder:** If some doctors are saying no, then we're obviously talking to the wrong doctors.

**Mr Mahoney:** You want to buy a different opinion?

**Mr Weisleder:** Don't you?

**Mr Mahoney:** No.

**Mr Turnbull:** Actually, your answer to Mr Mahoney alarms me a little bit. There's no doubt that you get different views from whichever side you happen to be speaking to, but people who represent that we should be compensating for more rather than less seem to be ignoring the fact that there is a serious fiscal problem at WCB. We've heard several presenters here, both injured workers and union representatives, who have suggested that there really isn't so much to worry about in the fiscal situation with respect to the unfunded liabilities, and yet

Dominion Bond Rating Service has actually, as you've heard, reduced the rating of the Ontario government because of the serious perceived threat to the economy and the potential, in fact, to drive away job-creating investment. Can you comment on that?

**Mr Weisleder:** Yes, I'd be delighted. First of all, can we put a price on human suffering? Secondly, what about the cost to society of the loss of productivity which is a result of disability due to stress or disability due to injury because employers are not willing to enforce the regulations that already exist with respect to workplace health and safety? And of course you don't have enforcement unless you have staffing, and the government's policies—for example, the ones I identified are on expenditure control and the social contract—are reducing enforcement staffing.

But if you're concerned about addressing the fiscal crisis of the state, as I mentioned in my remarks, there's a solution: Reform the tax system, but in a progressive direction. The corporations that used to pay more than half of overall revenue garnered by all levels of government are now paying less than 10%, and the recommendations of the Fair Tax Commission, which have been gracefully put on the shelf, would help to redress that glaring imbalance and help to restore adequate funding in this area and other areas and obviate the need for cut-backs.

**Mr Turnbull:** And when the businesses leave the province as a result of increased tax load?

**Mr Weisleder:** I think the time is well past for the Premier to boast that Ontario has the lowest corporate taxes in the Great Lakes area. I don't think we have to compete by lowering our standards and by giving business a free lunch.

**Mr Turnbull:** Well, I'm sure it all depends which audience he's speaking to as to what his message is, as he's adequately demonstrated.

**Mr Ferguson:** Thank you very much. I think you've eloquently demonstrated through your presentation the kind of balance this government has attempted to reach. I don't think any one of us here wants to even partially de-index anyone's pension, but some hard decisions have been made in the proposed bill that sits before us today.

I want to ask you one question. We've heard from a number of communities that this government isn't going far enough. In fact, the Progressive Conservative Party has suggested that immediately we ought to take the benefit level from 90% of net earnings down to 80% of net earnings and immediately there ought to be a 72-hour moratorium before one is entitled to collect any type of benefit as a result of a work-related injury. I'm wondering if you would have any comments on those two proposals.

**Mr Weisleder:** Mr Ferguson, my only comment on those two proposals is that it is well known that there is no limit to the avarice of business. I think we have to refer to the phrase from the old labour song, "Which side are you on?" I think the government has to show that it is on the side of workers, not only with respect to governance and return-to-work provisions but with

respect to the maintenance of full indexation.

**Mr Mahoney:** I thought we were "in the same boat now."

**Mr Weisleder:** The boat is suffering a leak.

**The Vice-Chair:** On behalf of this committee, I'd like to thank Local 595 of the Ontario Public Service Employees Union for its presentation this morning.

1140

#### COUNCIL OF ONTARIO CONSTRUCTION ASSOCIATIONS

**Mr David Frame:** Good morning. My name is David Frame. I'm the executive vice-president of the Council of Ontario Construction Associations. With me today is my chairman, Doug Chalmers, of Doug Chalmers Construction.

We welcome the opportunity to appear in front of the members of the resources development committee today concerning proposals in Bill 165. As I said, we represent COCA and COCA represents the interests of 50 construction associations and their 8,000 members throughout Ontario. We represent them on common concerns such as legislation, regulation and policy of the provincial government.

Last June, representatives of the PLMAC steering committee asked us to participate in reviewing workers' compensation issues, analyse the issues and prepare a set of management recommendations. We were persuaded to participate because of guarantees from the Premier that he recognized the system's financial peril needed immediate attention and he was personally committed to addressing these issues. Based on this commitment, I became a member of the steering committee and enlisted the resources of COCA and our WCB committee. Unfortunately, I've had to report to our industry and now to you that Bill 165 does not address the problems in the workers' compensation system that we have identified and that changes will make the problems worse, not better.

There is an alternative to Bill 165. The position put forward by the employer community last October represents an extensive review and set of recommendations. We fully support these recommendations and believe that they appropriately identify the problems and required corrections. While we do not have time to review most of these today, we strongly urge you to consider these alternatives.

We would like to repeat what the employer steering committee and the Employers' Council on Workers' Compensation established on Tuesday. We will not accept the authorship that the government has tried to place on the business community. We worked in good faith with PLMAC CEOs and industry leaders whom the Premier chose to shape reform. Their recommendations were flatly rejected late last year. Then, when the PLMAC labour and management leaders negotiated a reform package in March, the Ministry of Labour decided to pick and choose from the agreement to the point that it is now unrecognizable.

The government made it clear that employers will continue to have no input into WCB reform when we



learned that Lyn Williams would chair the royal commission. The principle of a neutral chair is paramount for a royal commission, considering how polarized workers' compensation has become. We believe that the rest of the employer community will not participate in such a charade. The system does not serve either workers or employers and a fair, objective assessment is the only acceptable approach in developing reform.

The Ontario Workers' Compensation Board had an unfunded liability of \$11.5 billion at the end of last year. With only 36.7% of its debts funded, it is in a financial crisis that makes the recently liquidated Confederation Life, which was 92.5% funded, look like a booming enterprise. If we look at these two corporations, there are really only two important differences that account for the WCB continuing and the private sector corporation being liquidated.

The first is that the superintendent of insurance does not have jurisdiction over the board and the second is the notion that the Ontario government owns the system and will bail out a failed program, at least to the extent of ensuring that injured workers continue to receive their benefits. The minister's comments on Monday seem to challenge this second difference, but we'll get back to that point in a minute.

The superintendent of insurance has now given some definition of what funding is needed for a non-government-owned system to be solvent, and that's something better than 92.5%. At 36.7% funding, Ontario's WCB system is far beyond being solvent.

We are equally alarmed that the unfunded liability continues to grow at a rate of about half a billion dollars per year while rates continue to increase in the Ontario system, which is already the most expensive in the country. These costs become a significant impediment to job creation, as all payroll taxes serve as a tax on job creation. Contractors now pay an average of \$2,508 per employee per year to the WCB and some can pay as much as \$7,400. Add to this the costs of other payroll taxes, such as unemployment insurance, CPP, the employer health tax, and the average cost per employee is now over \$5,400 annually. These prohibitive costs force employers to consider greater mechanization and the use of overtime rather than new employees. These costs are a significant factor in Ontario's jobless recovery.

In the construction industry, the average cost of premiums paid per worker has jumped from \$962 in 1983 to \$2,508 in 1992. This 261% increase in cost perhaps could be justified if it had been used, as promised, to begin eliminating the unfunded liability; unfortunately, it hasn't.

The board has become increasingly pessimistic about reaching 100% funding by the Strategy 2014 target. Many employers last year challenged the board to roll back 1994 increases, many of which were in the range of 20% and 30%, at a time when many companies were scrambling to find the cash to keep their doors open. In 1995, many employers will again be asked to deal with premium increases of this magnitude. These increases, including 1995 rates, continue to be set based upon achieving full funding by 2014.

On the issue of governance, the construction industry has had a lot of experience working with the bipartite process and we know that given the right circumstances it can work. We also know that given circumstances under which the issues are politicized, such as happened in the Workplace Health and Safety Agency, it's a recipe for disaster.

Bill 165 proposes a completely bipartite governance structure at the WCB, but then, as we understand from the principles announced Monday by the former deputy minister, will direct employers and worker representatives to ignore their constituencies and "act in the best interests of the WCB." Members of the board of directors will be put in an untenable position. Those who betray this responsibility will best represent their constituencies. Clearly, a bipartite board is in direct conflict with operating in the system's best interests.

COCA was also stunned on Monday to hear the minister announce that under the new governance model "both stakeholders will truly own the system with all that implies." The deputy minister further stated, "Responsibility of the unfunded liability rests with the WCB, not with the government." Let's be clear: Management never asked for joint ownership, we never agreed to joint ownership and we simply won't accept this. The public interest must be protected by the participation of neutral persons on the board while government must maintain ultimate responsibility.

A key factor in keeping the WCB afloat while other corporations would be declared bankrupt is the implied financial backing of the government. The deputy's comments, however, make it apparent that an unstated goal of the legislation is to eliminate the government's exposure to the increasing likelihood of the failure of the system. The government's withdrawal appears to have placed legal responsibility on the board of directors through the new clause requiring them to act in a financially responsible manner.

Let me talk for just a couple of minutes about the Ontario construction industry's performance in WCB. The construction industry in Ontario has made unprecedented improvements in health and safety over the past 10 years. The attached graphs shows that the industry has lowered its accident frequency rate 62% from 1987 to 1993. No one will deny that by its nature construction is risky work. However, the industry has succeeded in virtually matching the improved accident frequency rates for all employers in 1993. We believe this is an incredible achievement.

#### 1150

There are a number of reasons for this turnaround, but we believe that experience rating has been the key. Our frequency drop parallels the introduction of CAD-7, the construction industry's experience rating system. The intention of experience rating is to encourage employers, through reduced costs, to reduce the number of accidents and reinstate workers as soon as possible. Doug Chalmers will talk about experience rating a little more in a couple of minutes.

Chart B on your page compares the number of lost-time injuries or LTIs with the total cost of benefits paid



out in the construction sector over a 10-year period. In 1982 the benefits paid on 2,023 injuries totalled \$130.2 million.

**Mr Mahoney:** It's 12,000.

**Mr Frame:** Sorry, 12,000 or, as shown on chart C, \$10,813 per LTI. Ten years later, accidents were reduced to 8,012, but the cost of benefits had soared to \$452.7 million. This amounts to an amazing average cost of \$55,875 per each lost-time injury and represents a 517% increase in the cost of each claim.

Construction employers have heard the government's argument—and our presenter before mentioned it as well—that the key to reducing costs is to reduce the number of accidents. We have responded to this challenge, but our 62% frequency reduction is lost in the face of a 517% increase in cost per claim. Until the government finds the will to gain control of benefit levels and take the emphasis off expanding entitlement, I believe we will continue to see this type of growth.

Chart D shows that while most areas of cost related to short-term compensation have been reduced because of accident reduction in the temporary comp section, the cost of pensions, mainly future economic loss, or FEL, has soared, pushing up total costs and the unfunded liability. This is a 60% increase in the size of the pension costs, yet it does not account for the lifetime costs of FEL. If there's a key to controlling runaway costs, it is to modify the FEL program. COCA worked with the PLMAC employer steering committee, making recommendations on how FEL costs could be better contained while still ensuring that workers in need receive full and adequate compensation. Unfortunately, all of these recommendations have been ignored in this legislation.

The construction industry is hard hit by FEL costs, in part because of the method by which the legislation determines assessable wage. Construction workers, even in good economic times, tend to work less than the average worker and are compensated, in turn, by a higher average hourly wage. In the good economic times of the late 1980s the average construction worker worked approximately 1,700 to 1,800 hours annually. In the recent recession this has declined to an average of approximately 1,100 to 1,200 hours. The Workers' Compensation Act, however, requires that determination of the average wage be based on the current week's work. Usually a construction worker has worked a full 36- to 40-hour week prior to making a claim and the wage is projected assuming a work week of 1,800 to 2,000 hours annually. These projections are also used to calculate the future economic loss pension. As a result, workers are often paid substantially more than they could expect to earn while working over a full year.

COCA's calculations estimate that this loophole costs more than \$32.5 million annually in temporary compensation and another \$13.2 million of FEL payments in the first year of an award alone, and that award may be extended up to the age of 65. The elimination of this loophole would reduce benefit payments in the construction sector alone by more than \$45.7 million, or 14% of the total annual benefits paid in our industry.

Equally as important would be the reduced barrier to

reinstatement. The government has declared reinstatement to be the new focus for the WCB under this bill, but ignores the natural reluctance of most employees to return to work for less pay. A simple amendment would solve this.

The board's own statistics established that 20% of future economic loss recipients have no impairment that affects their earnings level. A loophole in the legislation assumed that an employee who has not returned to work within 12 months of an accident has a permanent impairment and should be evaluated for FEL.

The construction industry over the past three years has experienced unemployment in various trades, generally ranging from 40% to 60%. Because of this, many workers have suffered relatively minor lost-time injuries but are still not employed after 12 months. Hundreds of able-bodied construction workers are being awarded FEL pensions even though their unemployment is a result of economic conditions, not their injury.

An amendment to the Workers' Compensation Act should require that the NEL evaluation be applied first to establish if an impairment exists. This test would reduce the number of FEL awards by 20% and assure that the awards that are being made go to those with real needs.

These are only two of the nine steering committee recommendations contained in the FEL report. They don't involve reducing compensation to workers with a demonstrated need, but they do involve cutting wasteful, counterproductive spending. We encourage you to consider the importance of containing these costs before the situation gets worse.

I'll ask Doug Chalmers to talk to you about return to work and the impact of experience rating.

**Mr Doug Chalmers:** We have focused on our many problems with the workers' compensation system, but we must recognize that CAD-7, the construction industry's experience rating program, has been a resounding success.

A few minutes ago, David presented the impressive reductions in accident frequency rates made by the construction industry. CAD-7 was first introduced to the construction industry in 1984 and was fully implemented by 1987, the year the turnaround began. It is no coincidence that the implementation of CAD-7 has paralleled a 62% reduction in the construction industry's accident frequency rate. Experience rating has given employers some control over the huge costs of workers' compensation and gives employers the message that if they reduce accidents and bring workers back to work, they will reduce not only the board's costs but their own. These rebates justify the numerous dollars spent on safety programs, training and other initiatives to achieve these objectives.

On Monday the government gave notice of its intention to amend section 103.1 to clarify employers' concerns that experience rating is to be replaced by an audit of employer programs. The amendment does provide the statutory recognition of cost-based experience rating that we believe is necessary, but our concerns remain that the bureaucratic, interventionist program described in subsec-

tion (3) will destroy the effectiveness of experience rating and be directly responsible for a rise in accident rates. These changes remove the employers' ability to control their own performance and create more red tape and unnecessary inspections.

One must examine the uniqueness of the construction industry to understand the impact of the above statement. One must also remember the ever-changing workplace. A craftsman does not come onsite and do the same repetitive task for the entire length of the project. For example, a carpenter will initially come onsite and form the footings and walls. He/she will then leave the site. When the envelope is constructed, another carpenter who specializes in framing will come onsite and do the high roof framing. A different crew of carpenters will do the drywall. Another crew of carpenters will hang the doors. Finally, a completely different crew of carpenters or craftsmen will install the millwork. At this same time other trades are onsite and their crews will change to suit the work. The job site changes physically every day and the craftsmen change as the special requirements of each trade change.

The most important thing to remember on a job site is that you are only as safe as the person working beside you. Therefore, all construction workers must be trained to work safely. All 38,000 construction companies would have to be inspected because one's safety could be imperiled by a very small company that is key to the project; for example, a crane, elevator or painting company. A number of employer exemptions would therefore endanger site safety.

Our primary concern with the template is that it completely redefines and refocuses the very nature of experience rating. Experience rating as it now exists is a results-based program. Employers reduce their WCB costs by having fewer accidents and by returning injured employees to work. If they fail to do this they receive a surcharge at a rate that reflects the increased burden placed on the system. The template moves the program away from being results-based to a mix of results- and process-based. We believe it is only reasonable to ensure that an employer initiating his/her own programs to reduce costs should be rewarded under the existing experience rating system.

1200

Unfortunately, this section will be a filter requiring employers to prove themselves twice: once from an audit and then through their performance. If the board requires an employer to be audited before receiving a rebate, safety on job sites will deteriorate. An employer who has 100 employees may spend, on average, \$50,000 to \$75,000 per year to receive a rebate of between \$100,000 and \$140,000. In these recessionary times, the rebate for some companies is higher than the company's pre-tax profit. With no rebate and increased costs for safety, is this larger company going to continue to train smaller subcontractors and their employees?

We were particularly concerned with the impact of these criteria on the construction industry. Let me give you an example: Mr Ian Bergeron of Sayers and Associates, a COCA member, recently wrote Mr Steven Offer,

MPP, and a member of this committee—

**The Acting Chair:** Excuse me. If I might break in for a moment, you have about two minutes left, if you want to leave any time for questions. I'm just warning you.

**Mr Chalmers:** His problem relates to returning an injured worker to full employment and is a perfect example of our problem. The letter reads:

"Currently, we have a worker with a finger injury in the Bruce Peninsula area. The project he is on is complete and we do not have an work within his union local. However, I do have work for him in the Hamilton area, but because of the high unemployment in construction the union will not allow travel cards. Hence, we cannot move him to another area. This results in the WCB paying the worker \$614 per week (tax-free) as we cannot employ him in any capacity. Soon the worker will be able to collect his locked-in...FEL award. In order to make this legislation work, employers need the freedom (upon acceptance by the injured worker) to move locations outside of the injured worker's union local."

Reinstatement is a common problem in the construction industry. The worker is fully recovered and prepared to come back to work and the employer is eager to provide him or her with work, but there is a lack of work in this area. None of the section 103 requirements concerning employers' programs for health and safety, vocational rehabilitation or return to work programs can overcome this obstacle. All the written practices in the world will not solve this problem.

The construction industry's unique requirements are rooted in the mobility of our workforce. Most tradesmen do not work for long periods with any one employer. As a project winds down, they are placed, usually through their union, on another project. Of course, when the economy is slow workers may spend long periods between jobs. If the employer does not have work available, there may be significant problems in re-employing the worker.

The proposed template measures individual employers' programs. It ignores the problems of availability and mobility of work. As long as these problems remain, the template is a useless, costly and ineffective exercise for construction. Experience rating is applied to all contractors, including the small ones. The board could not possibly audit all 38,000 construction employers. If they decided to audit, let's say, the largest 5,000 contractors, the cost would be prohibitive and would create significant compliance costs that most competitors will not have. The Construction Safety Association of Ontario, the CSAO, has determined that the most effective program to reduce accidents should target small construction employers who have higher accident rates. This template could not possibly serve this need.

The unique nature of the employer relationships in the construction industry requires solutions completely separate from the proposal to audit employers' health and safety, vocational rehabilitation and return-to-work programs. The best programs in the world are useless in solving the re-employment problem of Sayers and thousands of other construction employees.



COCA has met with the Provincial Building and Construction Trades Council of Ontario, our counterpart organization, representing most unionized construction workers in Ontario. We have agreed that reinstatement is a problem for construction under the current legislation and that the proposed legislation in Bill 165 will make the problem worse. Construction, labour and management have a long history of working cooperatively through the Construction Safety Association on many health and safety WCB issues. I have written the Deputy Minister of Labour with Joe Duffy of the Provincial Building and Construction Trades Council of Ontario, (appendix B), pointing out the unique, significant problems that the construction industry faces with this proposal and asking for an urgent meeting to discuss a more appropriate application.

Ladies and gentlemen, the proposed template under section 103.1 of Bill 165 will only further damage the current efforts to reinstate injured construction workers. The only effective program now in place is CAD-7, and it is going to be significantly reduced by an audit which is not relevant to the return-to-work issues in the construction industry. Labour and management agree that this is a step in the wrong direction. We urge you to allow sectors like the construction industry to work with the WCB to overcome current barriers and develop more effective programs to aid in return to work.

COCA stands with the PLMAC steering committee, the Employers' Council on Workers' Compensation and other employee associations in advising this committee that Bill 165 will make a bad situation worse. It must be rewritten. We call on the government to return to the business recommendations of last fall and do the right thing and preserve the system for the future. Thank you.

**The Acting Chair:** Thank you very much for your presentation. I'm afraid I can't allow questions; we're approximately five minutes over. I know that there are a number of questions by the committee that we would like to have put forward.

**Mr Mahoney:** But we're going to be muzzled, then. CANADIAN AUTO WORKERS, LOCAL 222

**Mr Dave Thompson:** My name is Dave Thompson. I represent Canada's largest local union, Local 222, CAW, on workers' compensation issues. Currently, we represent approximately 19,000 active employees and approximately 7,000 retirees. On a daily basis, we have an average of 520 people per day on workers' compensation benefits. Our biggest client of injured workers comes out of the Oshawa General Motors complex.

This week, as of Monday, August 22, 1994, we had a total of 240 on total temporary benefits and 140 on job search as being retrained. These numbers actually frighten me every day when I turn on my computer and get ready to deal with the compensation board.

I have served my local union for 11 years and have had to deal with three bills: Bill 101, Bill 162, and now we're here today for Bill 165, changes to the act.

I have enclosed our union's position. You'll probably see most of these recommendations again from other CAW locals. Today, our local union would like to

comment on rehabilitation, section 53 and section 54 of the act.

Rehabilitation, section 53: This section has been rewritten to provide board assistance to employers with vocational rehabilitation. At the risk of being facetious, employers are not the ones who are injured and who need vocational rehabilitation; injured workers are. Employers have obligations to provide vocational rehabilitation assistance under section 54 to assist injured workers. The board's role is to insist that they fulfil their obligations. Injured workers need rights to vocational rehabilitation, not employers.

We oppose the addition of the word "employer" to subsections (1), (3) and (9), and we recommend that the proposals be deleted.

We also oppose the new proposal, subsection (2.1), and the change to subsection (10) for the same reasons. Subsection (2.1) talks about the employer's vocational rehabilitation needs and subsection (10) would require the board to consult with the employer, whereas up to now the consultation has been "if possible." We recommend that these proposals be deleted.

It might be in the best interests of injured workers to be retrained and find employment elsewhere. If a worker, in consultation with the board, determines this to be the case, what business is it of the employer?

We recommend that subsection (10) be rewritten as follows:

"If the worker determines that a vocational rehabilitation program is required, the worker, in consultation with the union, if there is one, and the board, shall design the program and the board shall provide it."

Is the reasons for the proposed change to section 53(11), deleting "assistance in seeking employment," because it is felt to be redundant with section 53(12)? We recommend that this phrase be retained in subsection (11) since it gives the board the flexibility to offer assistance in seeking employment beyond the limitations of subsections (12) and (13).

We are opposed to the change to subsection (12). The present subsection (12) says that the board "shall" assist the worker to search for employment for a period up to six months after the worker is available for employment. The new proposal says "may" provide such assistance. We recommend that the present wording be retained.

## 1210

It's harder than ever for injured workers to find employment. The North American free trade agreement, structural unemployment and permanent plant closures have all contributed to the loss for many Ontarians and especially in the higher hazard industries, where many injured workers are no longer able to work. What is an injured worker to do if, while off due to an injury, his or her plant closes? I'll just give you the example of the Scarborough van plant: 223 people out there right now. In the past, the board had an obligation to help him or her for six months. The proposal would make future assistance optional.

Proposed subsection (13) includes the board's discretion to provide an additional six months of assistance in



seeking employment, contained in the current subsection (12), but contains a new provision allowing the employer to make such a request of the board. Why would the accident employer request the board to assist an injured worker to seek employment elsewhere? Because the employer just fired the worker or would like to get rid of him or her? Surely the board should not be placed in the position of such a conflict of interest.

Section 54: The proposed subsection (11.1) is a sound one which we support.

Strengthening vocational rehabilitation: The PLMAC agreement and the Premier's announcement promised that vocational rehabilitation assistance for injured workers would be strengthened. We said at the time that we were sceptical of such claims since they were vague. While employer demands such as the Friedland formula were written down with meticulous detail in the PLMAC agreement, there was not much substance to the comments about vocational rehabilitation.

We see now that our scepticism was not unfounded. Where are the improvements to vocational rehabilitation? We see less benefits for our injured workers, not more, especially in attempting to secure employment elsewhere. Existing board obligations to help injured workers seek employment elsewhere have been eliminated.

The significant changes to vocational rehabilitation are giving more rights to employers, who, as we noted earlier, are not the ones who need help; the injured workers do.

We do, however, acknowledge the significant improvements to the enforcement mechanisms proposed to sections 103 and 137, and I say "mentioned below," but it's attached after page 6. There are a number of pages there of our proposals and we ask you to read the brief. I'm not going to get into it.

In the new world of technology in the workplace, team concept, productivity and efficiency, more workers than ever are being injured with repetitive strain, carpal tunnel and tendonitis claims. More workers report back to work only to find that employers don't want to bring workers back or cooperate with the unions or the representatives to reinstate, rehire or rehabilitate the worker. The proposed changes in Bill 165 would tell employers to get on with it and provide safe workplaces and suitable jobs for workers once they're injured.

In summary, my brief is provided.

There are a few other comments I would like to make, and one is on universal disability. It's another fact in Ontario today—and these figures come from the Ontario Federation of Labour—that as of June 1994, 103 workers have been killed on the job and 181,092 workers have been injured in the workplace.

Recently, maybe you've seen in the Toronto Sun—what do we see? We see two MPPs, Elizabeth Witmer and Conservative Steve Mahoney, grandstanding.

**Mr Mahoney:** Excuse me. I'm a Liberal.

**Mr Thompson:** These two MPPs should be taken—oh, you're a Liberal—out behind Queen's Park and spanked—better yet, flogged—for their statements in the Toronto Sun.

**Mr Mahoney:** That's a sexist remark.

**Mr Thompson:** They had their chances to make the WCB act changes when their political parties were in power. They had their chances. They've done nothing constructive, but just destructive, and have no compassion for injured workers. All they want is media attention for the next election. This is another reason why politics should stay at—

**Mr Mahoney:** What's your point?

**Mr Thompson:** —arm's length and let employers and the unions do the work to change the act.

Finally, I believe the act should be done away with and a universal disability plan should be implemented. We have written a paper on that—I'm not going to get into it, but it's attached for your information—on what we believe would be another option, I guess, once the royal commission gets under way regarding the workers' compensation.

After page 6, there are our purposes, and it goes on. There are a number of changes that we've talked about here, and this is in coordination with the national union, our local union in Oshawa. Other than that, today, sir, I'd like to thank you very much. I'll answer any questions you have.

**The Vice-Chair:** Thank you. Mr Mahoney, I'm sure.

**Mr Mahoney:** An interesting attitude, that there should be violence imparted upon elected representatives in the province in the provincial Legislature because you disagree with them. A very interesting attitude. Instead of analysing the problems, you come in here with the temerity to suggest that we should be spanked and flogged because you don't happen to like our opinions. That's rather childish and unfortunate, and I think you should withdraw those remarks. But of course I have no jurisdiction under which to force you to do that.

**Mr Thompson:** Well, I'm not going to—

**Mr Mahoney:** I'm more concerned about Bill 165, however, than I am about your silly remarks with regard to Ms Witmer and I, and I want to know how you feel about de-indexation of pensions to injured workers, taking money away from injured workers under the Friedland formula as proposed by this government to, in turn, pay a supplement to other injured workers who will not be de-indexed. So, I don't know, 145,000 or 150,000 workers wind up paying the cost of this political payback by the NDP. Are you in support of that, sir?

**Mr Thompson:** I'm in support of part of it.

**Mr Mahoney:** Which part?

**Mr Thompson:** Of giving \$200 to those injured workers for the rest of their lives after their older worker supplement runs out at age 65. You know very well, Mr Mahoney, that the Canadian Auto Workers union was opposed and we walked away from the PLMAC. We were opposed to that. We were opposed to the Friedland formula.

**Mr Mahoney:** So how can you be in support of this bill? I just find this to be such a contradiction in terms, that you support this bill. You laud the government. You make outrageous comments about two people doing their

jobs, and yet you've got the nerve to sit there and say that you support this piece of legislation which is reforming workers' compensation on the backs of injured workers. Aren't you ashamed?

**Mr Thompson:** No, I'm not, sir. I'm ashamed to see you, quoted by Jeff Harder, "A \$180-million mistake," and talking about injured workers travelling in style in taxis when they're injured. Those are quotes in the Toronto Sun.

**Mr Mahoney:** You don't need to be ashamed of my quotes. I'm the one—

**Mr Thompson:** Your party, sir, had the chance—

**Mr Mahoney:** —who's responsible for my quotes. I want to know how you have the temerity and the nerve to say that you support a bill like this when it's taking money off the backs of injured workers. You should be ashamed.

**Mr Thompson:** I'm not ashamed at all, sir. We're here to discuss that.

**Mr Mahoney:** By the way, if you would like take the opportunity to administer the spanking or the flogging, I'll be happy to meet you there.

**Mr Thompson:** If you can't take the heat, sir, you shouldn't run for political office.

**Mr Mahoney:** Absolute garbage.

**The Vice-Chair:** Mr Turnbull.

**Mr Turnbull:** I've got no questions.

**The Vice-Chair:** Mr Hope.

**Mr Hope:** Thank you very much, Dave. First of all, dealing with the issue of the universal disability plan, I take it you're going to be making that presentation to the royal commission.

**Mr Thompson:** It's just another option that government should look at. It was talked about years ago. Professor Weiler discussed it in 1983, and it's an option that we're considering. Certainly, there are just so many acts today, so many insurance schemes. We think that one scheme would work for everybody in Ontario. Instead of having 10 different agencies, we could have one agency and we could administer benefits to injured workers. I think it's something that we have to consider. We will be speaking on that.

**Mr Hope:** I guess I've been just as angry as you. I probably wouldn't use the same words because I'm afflicted by some rules, but I'm getting a little disturbed too when I hear the business community come before this committee and say: "Don't increase our payments. Cut workers' benefits even more, and continue to pay us for upholding the law of making healthier and safer workplaces."

You're right. The opposition has been saying—Mr Mahoney got extremely mad at you, but I don't understand why, because they haven't indicated—they're agreeing with the business community, they're agreeing with the injured workers, but they have no solutions.

I guess we've seen what Greg Sorbara did with Bill 162 and his terminology, and you're absolutely right about the Conservatives. They've been pleading with the injured workers, saying it's shameful, but they're

agreeing to a benefit reduction because they think there's a generous contribution that's being paid for the injured worker, and yet agreeing with the employer.

But I just wanted to say that I agree with you on some of the terminology that you've put forward. I don't agree with everything. I would love to see Utopia being created with workers' compensation, but I believe medium steps have to be taken, and then also long-term ones, which is the royal commission. I would agree with you on a universal program for disabled persons because we have a number of programs out there that should be under one roof to deal with people with disabilities.

**Mr Thompson:** Well, employers should consider this because they would be paying one bill to one agency instead of OHIP and whatever carrier they're dealing with, unemployment insurance, Canada pension plan, the act, etc. It's absolutely amazing when you have to deal with all these different acts and when you have 15 companies.

We represent—this is a slow day—500. We've had as high as 1,000 a day off on benefits. It's absolutely amazing. You talk about how safe it is and all these great acts, but because of the new efficiency and the new lean and mean, we're finding more injured workers. It creates higher costs.

**The Vice-Chair:** Thank you very much. No further questions. On behalf of this committee, I'd like to thank Local 222 of the Canadian Auto Workers for giving us their presentation this morning.

This committee stands recessed until 2 pm.

*The committee recessed from 1221 to 1405.*

ONTARIO AUTOMOBILE DEALERS ASSOCIATION  
TORONTO AUTOMOBILE DEALERS ASSOCIATION

**The Vice-Chair:** I call this committee back to order and call our first presenters for this afternoon, from the Ontario Automobile Dealers Association and the Toronto Automobile Dealers Association. Good afternoon and welcome to the committee. Just a reminder, you'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you'd leave a little time for questions and comments from each of the caucuses.

**Ms Shelly Schlueter:** I'll try and speak quickly.

Good afternoon. My name is Shelly Schlueter, and I'm an automobile dealer. I'm also chairperson of the government relations committee of the Ontario and Toronto automobile dealers associations. With me today is Bill Davis. He is our director of government affairs. We certainly welcome the opportunity to comment on Bill 165 from the perspective of small business.

Our joint associations represent 1,000 new-car franchises located in cities, towns and villages throughout Ontario. In aggregate, we employ approximately 55,000 people. The average dealership in Ontario employs between 55 and 65 people. I have 80 people working for me. Our members are representatives of one small entrepreneurial business which plays a large role in maintaining the economic engine of Ontario, figuratively and literally, so to speak.

Our industry is under two rate groups. In 1993, in rate



group 657, which covers automobile and truck dealers, our members contributed \$16 million to the WCB. In rate group 630, vehicle services and repairs, our industry, along with other employers in that group, contributed \$48 million to the WCB. The auto industry, retail, sales and service, contributed over \$60 million to WCB in 1993.

Our comments this afternoon will convey the serious concerns that we have with the government's proposed amendments to reform the WCB contained in Bill 165.

Much has been said and documented about the PLMAC accord. In fact, the then president of General Motors, which is my manufacturer, was a member, and I had the opportunity to discuss first hand with George Peaples some of the concerns auto dealers have with the WCB. Time and time again, the auto dealers expressed that any meaningful reform could only be built around a financially responsible framework. Lo and behold, George informed me that such a framework was at the heart of the accord and that the labour members also agreed, early on in the process. However, it was very short-lived and in fact there was no agreement in principle that the WCB should be financially responsible.

I only bring this up again because the purpose clause of Bill 165 that in effect replaced the financial responsibility framework in the accord has no reference to costs at all. It was intended to define the duties and relationships of the many varying components of the WCB and enforce financial responsibility and accountability in the system. In reality, the purpose clause does not respect the consensus reached by PLMAC. Rather, it focuses the administration of the act exclusively on workers' interests without regard for the ultimate impact on business or the economy. We believe the original PLMAC purpose clause should be reinstated into the legislation.

The present governance structure of the board ensures that both business and labour have a significant role to play while guarding against the ability for any one group to dominate the agenda. The government's amendment will create a bipartite board, and one needs only to look at the Workplace Health and Safety Agency to recognize bipartism rarely works outside the workplace. But that's another presentation for another committee.

Not only does our association, as part of the business community, oppose Bill 165's bipartite recommendation, but it appears that government itself has serious reservations as to the ability of the bipartite board to work together. In Bill 165, the minister is provided with exclusive power to set WCB policy for one year following the proclamation.

1410

We are extremely sceptical of this direction, because it could be interpreted that if on a particular issue consensus is not attainable, would the minister exercise his or her prerogative to set policy that reflected the union's position on that issue, as has been the case time and time again over at the WHSA? Through this amendment, government has seized control of the WCB. We acknowledge workers' compensation is a public program for which government is ultimately responsible.

Now, the minister and his staff might argue that this

obligation to act in a financially responsible and accountable manner is addressed in sections 58 and 65, but the provisions in those subsections are limited to the board of directors itself, not the administrators of the system nor the members of the Workers' Compensation Appeals Tribunal.

One of the founding principles of the Ontario workers' compensation system was to deliberately separate the government from the administration of the Workers' Compensation Act to ensure a politics-free, arm's-length administration. The government designs the legislative boundaries of the system, while the board is charged with the responsibility to administer the legislation. This ensures the board is truly independent, free from political interference and protects the integrity of the WCB policy. For the first time in the history of the board, a government is ignoring this safeguard and is politicizing the WCB. This is an unprecedented step and effectively renders powerless the new bipartite board of directors.

Our association opposes these amendments.

Our association also calls, along with other people, for the elimination of the unfunded liability by the year 2014. The present workers' compensation system is technically bankrupt, owing workers \$11 billion more than it has money to pay out. The unfunded liability is growing at a staggering rate of \$2 million a day and over the next 20 years will triple, to some \$31 billion perhaps. In the worst-case scenario, the unfunded liability could reach \$52 billion. This isn't rhetoric or fiction; it is sound actuarial calculations.

A long-term funding strategy was developed by business and the WCB 10 years ago to retire the unfunded liability by the year 2014. To accomplish that goal, business agreed to an assessment rate increase of 15% for three years, to be followed by a 10% increase in assessment rates for the subsequent three years. In 1989, the annual report of the board stated that "...if the 1989 accident performance is maintained over the long term, it could result in the elimination of the unfunded liability seven years earlier..."

Well, the Ontario business community kept the accident rates down, and in fact they continued to decline, along with the rate of injury. The business community fulfilled its part of the agreement. Yet costs continued to increase and the unfunded liability soared. Today, Ontario has the highest unfunded liability in the country. Since 1989, the portion of employer assessment dedicated for retiring that unfunded liability has increased by over 57%.

I heard the minister Monday afternoon in this very room say, "There is a growing feeling that the board is becoming a drain on Ontario's economy," on our ability to attract investment and jobs and spark business confidence.

Our association supports the ECWC's Agenda for Workers' Compensation Reform that would reduce the unfunded liability to zero by the year 2014. This objective can be attained without significantly reducing benefits to individual injured workers.

Without a foundation of fiscal responsibility as the



cornerstone of reform, any modification or change to the WCB system can at best be viewed as a short-term quick fix only. The government's refusal to address the financial problems of the Ontario WCB in its amendments brought this reaction from David Kerr, president and CEO of Noranda and a member of the PLMAC group, "This is fiscally irresponsible and puts the future of benefits for injured workers at grave risk." We agree with Mr Kerr, and without the implementation of some very tough recommendations, WCB risks running completely out of assets in the next 25 years and there will be no money to pay workers' pensions. The government of the day won't need to worry about ensuring the integrity of the system; there will be no system.

Listening to me, you could possibly arrive at the conclusion that the automobile dealers of this province have nothing positive to contribute. That isn't so.

The experience rating program in Ontario represents one of the best examples of joint policy development between business and government. NEER established a balance between employer accountability and the basic insurance principles of workers' compensation, and we applaud it. The minister himself stated Monday that many workplaces are committed to professional disability management. I would like to add that we are also committed to professional workplace health and safety. NEER is a perfect example of that commitment.

The effectiveness of NEER has been examined by the Workers' Compensation Board in the new experimental experience rating program evaluation study. The study revealed that the NEER program has been very successful in achieving its goals:

"The results of the evaluation study indicate NEER has been effective in generating a substantial incremental impact on increased health and safety initiatives by employers in the area of prevention, of protection. The study also found that NEER has also been effective in generating an organizational response to the program in terms of focusing more clearly on the responsibility for health and safety issues and performance within the organization. Analysis of the board data shows a relative decrease in frequency rates for NEER rated groups...."

The amendments proposed by the government in Bill 165 will effectively destroy an experience rating system that is performance-based. The program-based review system proposed in the government amendments would require the WCB to become involved in extensive auditing programs of the workplace to determine compliance with the new regulations. Given the past experience with the subjective nature of the Workwell audits, we can anticipate numerous appeals involving penalties or lower rebates.

It will be difficult for small employers, like many of our members, to meet the demand of a program-based experience rating system since they generally lack the resources necessary to put written processes and procedures effectively into place. In many cases, true and professional safety practices are just that, practised daily and routinely and instinctively, and there are numerous legislated programs that are already implemented across the province.

The proposed amendments of the government provide the board with unnecessary interventional powers. This type of government interference into the marketplace will further damage Ontario's competitiveness and strangle business's freedom with more red tape, more unneeded rules and more unproductive inspections.

Our bottom line on experience rating is, leave it alone. Do not introduce amendments to experience rating that will undermine the integrity of a proven, acceptable and workable program. If you must tinker with it, augment it further in a positive way with incentives to increase rebates and decrease fines and red tape.

Bill 165 does not have the support of the auto dealers, it does not reflect the PLMAC consensus position and strategy for reform that was agreed to last March and it does not have the support of the business community. It does not address the Premier's concerns with the WCB's unfunded liability, its governance problem and long-standing policy issues that resulted in his decision to seek the assistance of PLMAC to determine a resolution in the first place. It ignores the Premier's mandate to his advisory committee that any solution for reform must be financially responsible and meet the needs of both workers and employers and be competitive with other jurisdictions.

There is a very clear yet propelling conclusion. I challenge this committee and the government of the day to go one step higher and one step beyond. Withdraw Bill 165 in its present form and go back to the stakeholders, because you can't do it alone. We do very little of significance by ourselves. If this is a good bill in its finished form, it's because many, many people have attempted to help it along.

The sequel to Bill 165 must have a final touch with a careful and balanced edit. There must be a constant, almost obsessive demand for clarity in order to achieve the quality necessary to serve the people of this province. Go back with a renewed commitment to purpose, a determination and perseverance to an internal locus of control. These committee hearings have afforded the public our right to comment, and they have offered you a practical and powerful tool. But as any one of my skilled mechanics will tell you, a tool is only as good as the person using it. You can merely cut or you can finely hone and create something with it. The choice is yours. I sincerely thank you for the opportunity to share our concerns.

1420

**Mr Mahoney:** Thank you for the presentation. On the issue around government interference, on page 5 of the bill, immediately following subsection 65.1(1), where it states, "The minister may issue policy directions" etc—you've referred to that in your presentation—it's followed up under a subsection (4) which says, "This section is repealed one year after it comes into force."

My question would be, given the fact that the government is telling us this is for some sort of transition, notwithstanding the fact that they've appointed what appears to be a pretty professional group of people to handle the transition currently, Mr Blundell and others, given the fact that there's a transition team already in

place at the WCB and given the fact that they are automatically in this bill repealing their ability for ministerial interference one year after the date it's coming in, why are you concerned about this?

**Ms Schlueter:** I'm concerned that the minister or the ministry will hold direct control over it even in that one-year period. It's happened over and over again at the Workplace Health and Safety Agency. We have seen the minister and the minister's office overrule its own caucus because of a decision they would rather see. It politicizes the WCB, and I have a concern because those are my dollars as an employer.

**Mr Mahoney:** So we're going to have a system with a bipartite board, very much like the health and safety agency, taking marching orders perhaps politically. Do you think they could do a lot of damage to this system in 12 months?

**Ms Schlueter:** Oh, clearly. Once policy is put in, and you're the professionals here, it's pretty hard to untangle. It's there.

**Mr Mahoney:** That's the truth.

**Mr Turnbull:** I wonder if you could just comment on the fact that the labour side has been suggesting that the experience rating that is currently in place simply rewards people for complying with the law. Perhaps you could just respond to that.

**Ms Schlueter:** Clearly, it does, but if you're doing a good job, why not reward the people that are doing the good job? We are business. This is reality. We're not in a scouting program where you do things out of the goodness of your heart. We are maintaining, and I meet a bottom line and a payroll and have for 10 years. I've got 80 people who depend on me. I can only keep that job if I can be economically viable. Watching my bottom line does that, and all the government programs come completely, directly out of my bottom line. I can't raise prices; the car prices are set. I can't go and raise door rates; the door rates are set. I have no way of recouping that. If I can achieve some financial benefit that can be turned back into my business to make my business stronger to employ more people, why not? And in the long run, we're still doing the good thing. There is an increase in health and safety programs at the workplace level.

I'm not asking for any breaks here. I'm just saying that if you're doing a good job, why not reward that, either in rebates, as has been the problem, or, I don't know, lower the fines.

**Mr Turnbull:** The other question I have for you is with respect to the unfunded liability. It has been suggested by many of the presentations made by labour that: "Oh, we don't need to worry about this unfunded liability. So long as you can just sort of maintain it, it isn't a problem." As you know, it's likely that the unfunded liability will go up to \$13 billion or \$14 billion over a period of years instead of declining to zero. What is the implication for you as an employer?

**Ms Schlueter:** Well, clearly the money is going to have to come from somewhere, and it's going to come from my assessment rates. I can only respond and relate

to what I am familiar with, which is running a business. All I know is, if I don't balance at the end of the year, the end of the month, month to month, I no longer have a business. So clearly if the WCB can continue on with this deficit and carry it over and carry it over, at some point it's going to end and there will be no system.

**Mr Ferguson:** Thank you very much for appearing today. We've enjoyed your presentation.

Today you called for the elimination of the unfunded liability by the year 2014. Obviously all of us would like to see the elimination of the unfunded liability by the year 2014, yet nobody has come up with a suggestion how to do that.

You should be aware, Ms Schlueter, that the party that you're going to be running for in the next provincial election has suggested that the unfunded liability should at least be at 50% by the year 2014, which is in fact 5% lower than what Bill 165 is—hopefully where that will end up in the year 2014. So even in your party it hasn't been suggested that we should eliminate the unfunded liability by the year 2014, nor is it possible to eliminate the unfunded liability by that year. Can you answer me how you're going to reconcile that?

**Ms Schlueter:** Last time I looked there wasn't an election called, and I'm not here as a candidate. I'm here representing the automobile dealers' association. I think my colleague would like to address that one.

**Mr Bill Davis:** On the unfunded liability, you can't continue to operate the WCB, Mr Ferguson, and you know it, not having moneys in reserves. The way to eliminate it—business in 1989 entered an agreement with the WCB to end it. In fact, you heard today in this presentation and all the presentations to today that it was successful, so successful that I guess it was 1989 when the WCB said, "If we continue that, we'll have it reduced by the year 2007," seven years earlier than we both agreed to.

But when you look at it, what you find is the accidents are declining, the injury rates are declining, but the costs of operation of the WCB and payments are continuing to increase. That's why it's imperative that this committee puts into the bill some type of fiscal responsibility around the agency. Once you put fiscal responsibility in, once you begin to implement the new indexing which even your own government is suggesting, although it should apply to everybody, then what will happen is you'll begin to bring it down.

If there's a true partnership and cooperation, I suspect that by the year 2014 we can eliminate the unfunded liability. If you as a government allow it to continue, then that's unconscionable in this world we live in. Business can't operate that way. I can't operate my own chequebook that way. I have bills to pay and I have to meet them. Government has to come to that recognition.

**Mr Ferguson:** With respect, sir, a purpose clause isn't going to save the board one dime at this point. How are you going to do it? What are the nuts and bolts of doing it, save and except a purpose clause?

**Mr Davis:** Mr Ferguson, I assume you've done the reading put in by the business community in their agenda



for reform, which indicates five steps that could be taken. One of them is the whole issue of indexing, reducing the index to 75% plus one of the CPI, no higher than four, and apply it to everybody, and no elimination and no—

**Mr Ferguson:** Well, that is in there.

**Mr Mahoney:** No, it isn't. It doesn't apply to everybody.

**The Vice-Chair:** On behalf of this committee, I'd like to thank the Ontario Automobile Dealers Association and the Toronto Automobile Dealers Association for their presentation.

#### ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

**Mr Joe Fauteux:** My name is Joe Fauteux. I am a firefighter from the city of Windsor and have been a firefighter for approximately 23 years. I am also the chairman of the workers' compensation committee for the Ontario Professional Fire Fighters Association. With me is the president of that association, Mr Jim Lee, who is a firefighter and has been a firefighter for almost 23 years in the city of North York.

The Ontario Professional Fire Fighters Association represents approximately 4,300 full-time firefighters from 53 municipalities of all sizes and locations in Ontario. We appear before you today to discuss some of the concerns we have relating to Bill 165.

Let me begin by saying that in my eight-year tenure of dealing with the Workers' Compensation Board on behalf of firefighters, their spouses and families, I have learned a great deal about how the system works and, more importantly, how the system fails to work. I know too well the difficulties that are experienced by widows of firefighters. I have seen widows having to wait up to three years before receiving the compensation benefits entitled to them.

1430

This is partly because of the system, where we have had to prove that a firefighter's dropping dead of a heart attack in the living room of a house that was involved in a fire resulted from an accident "in the course of his employment." The same system's inadequacies forced the widow of another firefighter to seek welfare and take boarders into her home in order to meet the financial obligations of being a single parent and raising a family, a situation that she did not want but rather was forced into by having to prove that her husband's death was as a result of a job-related accident as well. Currently, I am awaiting a WCAT decision concerning a firefighters' claim for a very simple knee recurrence. This case was heard by WCAT in November 1993. As of today there is still no decision.

Yes, there are problems with the present system. Anyone working within that system knows that all too well. Yes, there are some much-needed changes that are required to deal with injured workers in all the areas of the workplace. We also know and we understand the concerns that both employers and employees have regarding the cost of workers' compensation in this province. But the issue before us today is the matter of Bill 165. We have some concerns about what are being

proposed as some solutions to the mess of workers' compensation. There are two areas that seem to be the focus of the proposed changes. The first is the unfunded liability, and the second is the means of getting injured workers back into the workplace.

At the back of this brief we have included an appendix of some of the areas of concern that we see with Bill 165. We have also taken the opportunity in a few instances to suggest some language changes that may assist this committee in addressing the concerns we put before you.

In looking at the Friedland formula, one would ask, how does Bill 165 propose to diminish the unfunded liability of the board? One of the answers is very simple to us: Reduce the amount that we pay to injured workers and transpose that money to the unfunded liability account. What we are talking about here is the Friedland formula of indexing the pensions of those individuals who presently and in the future will receive pension payments from the board.

What is wrong with this, in our view, is that injured workers who will receive pensions now and in the future will not be able to keep up with the cost of living. The Friedland formula is used in many pension plans; that's true. But these plans are for retirees. Generally, retirees are those workers who have put in their 30 or 35 or more years of service and are now drawing their pension. Pensions from the Workers' Compensation Board are for people of all ages. A 30-year-old individual will not keep in step with the cost of living if they are not at least getting that amount of an increase.

That is why today under Bill 165 it is being proclaimed that you give a \$200 increase to the older workers, as suggested. Older workers will not have had their pensions keep up with this increased cost of living, even with the full indexing of the COLA. So now we have to allow them to catch up, or at least partly so. If we enact this formula now, then I would suggest that before the year 2014 we will be forced to give the new individuals an increase, as we have to now in 1994. We are only putting off our responsibilities until a later date. The mess will just continue.

We urge you to recommend that the Friedland formula of indexing pensions of the Workers' Compensation Board be eliminated from the proposed Bill 165. In our view, this is simply a method of saving money on the backs of injured workers.

The issue of saving money or reducing the unfunded liability is of major concern to everyone connected with this bill. In order to understand this important aspect, we have to understand exactly what an unfunded liability is. It is the amount of money owed to a group of people for which the revenues are not secured or in deposit of a bank or a similar system. That sounds scary. But in order for the unfunded liability of \$11 billion or \$13 billion to bankrupt the system, everyone who is owed the money would have to demand it today, and that is not realistic.

In the arena of negotiating firefighter collective agreements, we are constantly subjected to dealing with municipalities and their unfunded liabilities surrounding the sick leave gratuities. They claim that they have this



tremendous debt of X number of millions of dollars. What they do not say is that in order for that debt to have the full impact, every firefighter entitled to any amount of the sick leave gratuity would have to quit and demand all of his money owed to him today. Again, this too is unrealistic.

The unfunded liability of the board is there, but let's keep in mind what it really means. Does the board have to pay all of its debts off in one lump sum in one short day? Of course not. The board will continue to pay the money that it owes its injured workers, surviving spouses and dependants. It will also continue to collect revenues from premiums owed to it and from its investments. The debt can continue and do so without the fear of complete bankruptcy because not every worker is going to demand every dollar tomorrow.

In the area of re-employment or modified work, Bill 165 is looking at making the re-employment of the injured worker more of a reality in more workplaces. Presently, many employers are still refusing to become actively involved in providing modified work for their employees.

I know from personal experience that prior to 1990, or Bill 162, fire chiefs and city officials would often state to us that there is no modified work in the fire service. Our seriously injured firefighters were often hit with the statement, "Either you fight fires or you don't work here any more." Now many of these same fire chiefs are running around trying to develop modified work plans. Amazing how we find these jobs after the legislation was changed to demand that it be done.

One would think that we as firefighters would be supportive of this issue, but what faces us now from our employers includes such things as the employers' secretaries contacting our doctors directly for a prognosis of our condition, the threat of having our wages reduced if modified work continues for more than eight weeks, and, further, the threat of being moved from the fire department into some other position within the municipality. Modified work or re-employment can work, but only if it is done without an antagonistic approach and the alienation attitude of many employers and supervisors that injured workers are only looking for a free ride or an easy way out.

We are also having to deal with employers offering modified work to employees and then the worker being told by his doctor not to do that job function because it will aggravate his condition. Often the employer thinks the worker is being uncooperative, so they notify the board that the worker has refused alternative employment. The board suspends benefits. Then the appeal process begins. Unfortunately, during the appeal process the injured worker is left without any income. What position does that put the worker and his family into? Even if he wins his appeal later, he has still gone without the wages or benefits for too long a period of time. If you really want to make sure the employers participate in a positive re-employment program, then allow the worker to continue to receive benefits until an appeal as described above has been finalized. Under the present system, the worker is penalized and punished for following the advice

and direction of his treating physician or a specialist rather than following the direction of a fire chief or another municipal employee.

With respect to the royal commission, according to Bill 165, a royal commission is going to be put into place in order to study the full delivery of services and directions of the Workers' Compensation Board. Further, this commission will look at the way injured workers or disabled individuals should be compensated, whether their disability arises from a work-related accident or not.

We believe that a commission to investigate the entire Workers' Compensation Board, from within and from without, is a welcome event. We hope the commission will address the many issues that the board has neglected to develop or implement, issues such as vocational rehabilitation for the spouse of an injured worker who has not died but is incapable of ever working again, or the fullest investigation of allowing heart attack claims for firefighters even if the heart attack cannot be specifically attributed to one instance. This is the presumptive clause that exists in many regions of the United States and some provinces of Canada but is missing from the Ontario Workers' Compensation Act.

Undoubtedly, the commission will look at pensions, indexing and the financing of the board.

Why is it that now so many workers, approximately 700,000, in this province are not covered by the act? Why are bank employees not granted the full benefits enjoyed by other workers in this province?

Because of the emergence of a royal commission to investigate these and other aspects of full service to injured workers, we would suggest that all of the changes proposed by Bill 165 be stayed. Let the commission do its job. Let the commission submit a full report with its suggestions for a better system and delivery mechanism than we presently have. Then, if it is appropriate, take the recommendations of the commission and implement them. To make changes today that may not be the recommended changes of the royal commission is to really put the cart before the horse. As an example, what do we do if a year or so from now the commission recommends that full indexing of pensions is appropriate, and we have only a few short months before implemented a formula of reducing the indexing of pensions as we know it today? We strongly urge you to wait for the commission to report its findings to you and then deal with its recommendations in an intelligent manner.

**1440**

Before closing, we want to take a moment to discuss another area of concern that we have noticed while reading and studying some of the arguments that have appeared in the Hansard reports; specifically, the position of some individuals from the employer groups and those MPPs who support them regarding the fact that the employer pays the full cost of workers' compensation and that workers' should be paying for part of these premiums.

We disagree and oppose that mentality on two fronts. First, we as workers do in fact pay for a part of the costs of workers' compensation. If any of you have ever had

the opportunity to sit at a negotiating table with an employer, you know full well that every time salary increases are mentioned, the employer screams about the high cost of benefits: "You cannot have this much of a raise because it costs too much to cover the costs of your benefits." These benefits include the costs that the employer pays in workers' compensation fees or premiums. Arguably, if there were no cost to the employer for workers' compensation, then we could enjoy higher salary increases. If that's true, then we the workers are indirectly paying for a part of the cost of the workers' compensation benefits.

Secondly, let us not forget why the Workers' Compensation Act was founded in 1914. It provided the worker with a form of financial compensation should he or she become injured on the job. It also removed the employee's right to sue the employer because of the accident.

We wonder how many of the workers who are supposed to be getting this \$200 increase in their pension because of their financial situation would like the opportunity to sue the employer because of the unsafe workplace or the equipment that the worker had to use at the time of his accident. We wonder how many employers or those who support this mentality would also want to give the injured worker the right to sue. Somehow we don't believe that too many employers would jump on this bandwagon.

Now is the time to stop blaming each other, whether that be the employer or the employee, or whether that be the Liberal, the Conservative or the current NDP government of this province. Now is the time to get together and solve, in a joint manner, the problems with the board. Problems of funding and problems of servicing the injured worker need to be dealt with as we approach the 21st century. If we could achieve this in spite of all of our political differences, we would be doing the greatest service possible to injured workers.

We must never forget that the only individuals who need our attention are the injured workers, their spouses and their dependants. These are the victims of the unfortunate happening that took place. They need to be dealt with fairly and treated with the dignity that they deserve. We have to stop looking at these individuals as a liability and focus our attention to their very pressing needs.

On behalf of the Ontario Professional Fire Fighters Association, I thank you for the opportunity to speak, and we look forward to answering any questions that you would have of us.

**Mr Mahoney:** Thank you for your presentation. It was really quite excellent.

I'd like to ask you a lot of things and I want to say also, by the way, that I totally concur with your closing remarks about it getting together to solve it. In fact, I put out a report entitled *Back to the Future*, reform on WCB, and that was one of the strongest positions I took, that it's not partisan, there's enough blame for everybody in this whole mess and let's try to figure it out.

The unfunded liability on page 6, I think you're right

on with regard to the fact that not everybody's going to cash in their chips today. The problem and the fear is that we currently sit at about 37% funding: \$6 billion in assets, \$17.2 billion in debt. The debt seems to be growing more substantially than the assets. So if you look over 20 years and you see the debt increasing—and I will admit it's a lower increase than it was perhaps a year ago, but it's still an increase—at \$1 million to \$2 million a day and you see a very poor return on the investment fund, the \$6 billion, the growth, you're going to have lower growth on your assets and higher growth on your debt. Instead of being funded at 37% we could go to 25% or 20% or lower.

That's the problem, in my view, with the unfunded liability. We have to turn it around and send that funding ratio from 37% to 50% to 60% to 70%. I think that's the real issue with the unfunded liability and you've attempted to sort of clarify that. But do you agree with me that the problem with the growth in the unfunded liability cannot continue? There has to be some form of financial plan. It may not only be to 2014; it may take longer than 20 years to get this thing under control. You amortize mortgages over 25 and 30 years. Maybe that's the length of time we should be looking at.

**Mr Fauteux:** I'm certainly not an economist by any stretch of the imagination.

**Mr Mahoney:** Nor am I.

**Mr Fauteux:** I have a hard enough time balancing my chequebook at the end of every week.

There are a couple of things that I think can address that unfunded liability. The reason it was in the brief was to make sure we understood what that really was. There are a couple of things that I think may help to reduce the unfunded liability. One is looking at the 700,000 people in this province whose employers are not contributing anything to the workers' compensation system as we know it today; another deals with the re-employment, and yes, make modified work, make re-employment a reality, but do it without scaring and without doing it in a threatening manner to the injured workers who are being offered these jobs.

When an employer comes to me and says: "We're going to bring you back to work on a modified work job. Now we're going to take you off workers' compensation, but if your injury isn't better in eight weeks we're going to reduce your wages," it's no wonder there's an alienation there between workers and employers, and that's exactly what's going on now.

The other situation that was described in the brief was an employer calling a doctor directly and saying, "Can he do this?" and the doctor saying, "No, he can't do this modified work or this re-employment status job." That individual firefighter put himself into a position of either obeying a chief and disobeying his doctor or being cut off benefits. Now he's being forced to retire seven years before he wanted to because he can't work and his claim has not been approved.

**Mr Mahoney:** Remember, in 10 seconds, that the 700,000 workers who are not paying in right now also will bring a cost to the system.



**Mr Fauteux:** Yes.

**Mr Mahoney:** It's not all gravy, and studies show it will not be positive for the system.

**Mr Turnbull:** Turning to page 9 of your brief, with respect to the royal commission, you're talking about taking a look at how individuals could be compensated, whether or not their disability was related to an accident at work. Is it your contention, in essence, that an employer should provide some kind of insurance irrespective of whether it has anything to do with the employment?

**Mr Fauteux:** I don't know if I would go that far. When I was preparing for this and when I was reading up in material that I had at hand, I understood that the royal commission was going to look at the Workers' Compensation Board, number one, but also look at disabled individuals in the province of Ontario, regardless of where the injury had originated from, and see if there is a way of combining services or doing whatever would be needed in order to deal properly with all injured individuals in the province, workers' compensation being one area, but injured workers who have been involved in a car accident that was not job-related as well. So that commission was going to look at dealing with injured individuals in the province of Ontario, workers' compensation being the main focus.

**Mr Turnbull:** How do you square that with the statement you made that in fact workers really pay now because of the negotiations that go on at salary time for a portion of WCB, if you're talking about taking in people who are not necessarily employed?

**Mr Fauteux:** I'm not saying it necessarily has to be the employer that is paying for the cost of an individual who was injured not in a compensable accident. At the present time we have a welfare system, we have CPP disability; we have all of these other things that deal with everybody else. My understanding was the commission was going to look at the entire picture, and workers' compensation is one segment of that picture.

1450

**Mr Hope:** You've raised a number of good areas, one area dealing with the appeal process, what happens to the family during that. Employers do utilize that as a mechanism to put financial strain on individuals, and I think what we have to do is look at an area to try to put money into people's hands while the appeal process is going on. We have it in other jurisdictions. In other areas when an appeal is going on the individuals continue to be paid. I just want to identify that.

We're currently paying money back to employers. We've heard employers' presentations say they want to freeze the rates, they want cutbacks on the benefits to individuals and yet they're asking us to keep the experience rating program going on, which is money kicked back to them. They indicate in their briefs what they pay to WCB but they never tell us how much they receive back.

I'm wondering, in your opinion, if we were to use the experience rating money that we give back to corporations—we're just upholding the law, making healthier

and safer workplaces—because you indicate about a year to do the commission, keep that money for about a year, a year and a half, allow the commission to work back. Let's not implement the Friedland formula. Let's see if we can expedite people to really deal with this. You raised some good things, saying that people have to set partisan issues aside. We're all talking about the injured worker and protecting him. What if we were to do that and make sure that we hold on to the experience rating money that we pay back to employers and make sure that we don't have to introduce the Friedland formula or reduce anybody's pension, and expedite a process to deal with the unfunded liability which everybody's concerned about—just your opinion on that.

**Mr Fauteux:** My opinion is, I'd probably have to leave that to somebody else to decide. In my business, in dealing with firefighters, as far as actual premiums are concerned to the Workers' Compensation Board, we don't deal with that—in very, very few instances—because the vast majority of our employers are schedule 2 employers who basically pay as they go plus the assessment for processing the claim. So my expertise in answering a question that is dealing with the assessment rates of the board would be most inappropriate, I would think.

**The Vice-Chair:** I thank the Ontario Professional Fire Fighters Association for its presentation this afternoon.

QUINTE AND DISTRICT INJURED WORKERS GROUP

**Ms Anne Madill:** Thank you for allowing me this time to come up here. I'm Anne Madill of the Quinte and District Injured Workers Group.

**The Vice-Chair:** You can be seated. Get yourself comfortable.

**Mr Turnbull:** Would you like to borrow my backrest?

**Ms Madill:** Oh, I'd love to.

I'm with the Quinte and District Injured Workers Group. I am the president and also the person who does their cases for them. I have my level 3 with the OFL. I go right to court and do hearings etc. I'm also an injured worker.

As you'll see on this first page, that's when we got our first new home, and before that I was working out of my home.

I'd like to, first of all, tell you what the life of an injured worker is like. I was injured in 1987, lifting a patient with another nurse. She slipped or let go and I got 268 pounds. Two back operations later, bone from my hip screwed into my back with six screws, which I still have, I walk with a cane sometimes, which I've got folded up in there.

I was supposed to go back in and have the screws taken out and a rod put in, but when they got me there for my pre-med they found out I had a heart condition due to the surgery prior to that. So now I'm on seven heart pills a day, I'm on five Tylenol 3s, I'm on Zantac, Prozac, about 17 pills a day, and that's the way I'm going to be for the rest of my life. I wear a back brace. I've had to give up many things in my life: golfing, carrying a flag for my country, being an ambulance



driver, a volunteer; I can't do that any more. I can't take long trips. I can't walk any distance. I sleep with eight pillows at night. Thank God I'm a widow or I'd probably be divorced by now.

My life has just gone. I don't have any life; that is why I bury myself helping other injured workers, because I know what they're going through and I care. I have clients who are losing their homes. Their wife or their husband is leaving because they can't cope with it. I'm starting a support group in Belleville for the spouses and the children of injured workers because I feel they need support and guidance as well as we injured workers do. They're the ones who suffer as well. I have two I'm working with right now—suicidal. I'm counselling them and I'm proud to say they're coming along very well.

So it affects not just the injured workers; it affects the whole family. Your social life is gone. I can't go out and dance any more. Can you see me up there with six screws, dancing around the floor? I'd fall down. It's sad. I think Bill 165 should be scrapped. Start over. There's not a thing in there that's really going to help us except for the \$200 a month, which I'll go into.

I have the opportunity of working with a lot of the older injured workers prior to 1990. They do not qualify for this because they turned 65 before July 26. Section 147 was not in effect at that time, so they don't get it. But why shouldn't they get it? They're living in poverty, and I say "poverty." When I go home at night and take food out of my freezer to an injured worker's house so that he or she can have something to eat, it's getting pretty bad.

Our organization has had to go and pay their gas bills or their gas is going to be shut off. We've all chipped in and what we didn't have in the bank—everybody put some money in, and the same for the electricity. These people are living in poverty and there's no need for that whatsoever. They have worked all their lives and they're injured as to no fault of their own. Why should they have to suffer like they are suffering? Why should I have to suffer like I am?

My pills for my heart and the other pills I take cost me \$141 a month out of my own pocket, out of my WCB cheque that I get, because WCB says it's not work-related, yet it happened on the table I was being operated on. It's right in writing at the hospital that they had trouble with my heart on the table. Why wouldn't I have trouble? They had an anaesthetic, Valium, morphine and Demerol all in me. I went berserk. I don't even remember about a week of it. I thought they were taking my heart out and putting it in the guy next to me. This is what they do to us. They dope us up and then, "Oh, well, put her back to work." Anyway, I could not go back to work so they pensioned me off. I qualify for this \$200 but that's not the point.

I would like everybody who was injured before 1990 to qualify because they need it. That would mean \$50 a week extra for food for every older person. You should see what some of those people are eating. Unless you have a father or grandparent who is injured and living in those conditions you really don't know what it's like, and you really don't know what it's like to be injured until

you're injured. You don't walk the floor at night in pain, pop pain pills till you're, "Oh God, I can't stay awake to watch TV," you know. It's terrible.

They don't take your doctor's word for it. All these papers put in front of them at the WCB, that's what they take. A person who can't even walk can get 15%. A person who can walk and go out and play golf and everything else gets 30%. It's not done right and I think it should be done by our own doctors, not WCB doctors. I've dealt with them. They came down to our group and spoke one time and the one doctor couldn't answer any of the questions that my injured workers were putting to him. No wonder he's working for WCB, because he probably couldn't make it on the street. That's what I told him. Okay, that's the injured workers.

#### 1500

Another thing that my injured workers are really upset over is, before you reach 65 and you're pensioned off—it's not in this thing; it's an afterthought that I didn't put in—you do not have a drug card. I'd like that put in somewhere in the bill, maybe, that we could get our drugs, because only the ones that relate to our back injury get paid for by WCB. All the other ones we have to pay for ourselves. But once you reach 65 you can get them, right? Do you agree that we should have a drug plan for the—if you're on social services—

**The Acting Chair:** If I might interrupt for a moment. Could you try not to hit the microphone with your papers, because it's being taped and it drives the whole system crazy.

**Ms Madill:** Oh, I'm sorry. I'm a little bit nervous. I saw a terrible accident on the way up.

Also, I forgot to mention in this the Hastings and Prince Edward Legal Services. Mr Dave Little, the staff lawyer, works very closely with our organization and you will see his name on the thing as well. He helps the injured workers fight for what their rights are.

I do not feel that the employer should have any say in the retraining of an employee. What else did I want to say here? Am I running out of time? We should not underestimate the insult to an injured worker whose accident employer, who has likely done nothing to return the worker to work, has the right to attend the vocational rehabilitation interviews, argue for whatever VR plan it may choose and be regularly updated on all aspects of the VR plan.

Right now I'm working with a client who was fired because he got injured. He cannot be rehabilitated because he is from the reserve and he had only a grade 5 education. How do you account for that? How do you rehabilitate something like that? So we're hoping that we'll win, but this is what is happening. The employers are not taking them back.

There's another one who's just had both wrists operated on. He was fired because he can't return to work, and the WCB, as soon as you reach a certain age, won't retrain you. I know; I was one of them. They would not retrain me for another job. I'm just out to pasture. I live on workers' comp.

That's all I have to say. I didn't go word for word here

because I wanted to get out how I feel as an injured worker and how I spend my time helping other injured workers so that they don't have to suffer. By the way, it's all volunteer work and I love it every time I win a case. If you have any questions, I'd love to answer them.

**Mr Steven Offer (Mississauga North):** Thank you very much for your presentation. As we have found in this committee, we are receiving presentations from a whole range of individuals, groups and associations who have some concern with the WCB and have some concerns, in fairness, with aspects of this legislation.

I want to deal with that part of your presentation that speaks to the role of vocational rehab, and if I'm not misreading your presentation—please correct me—you are quite critical of that part of the legislation that deals with vocational rehab. Could you share with the committee why you have concerns over the aspects of the bill that deal with vocational rehab?

**Ms Madill:** If an injured worker gets injured doing one job, and he loves that, the employer should not have the say as to what other occupation he should do for the rest of his life. He shouldn't have the say on what he should be trained on.

**Mr Offer:** I guess I'm wondering, recognizing your concerns, whether there's a responsibility on the part of a whole group of people that if a worker, through no fault of his or her own, gets injured on the job, that they get the medical treatment that is needed, they get the rehabilitation that is needed and that there is a genuine search for some other form of vocation in order to make a living.

**Ms Madill:** Well, a lot of the employers, dealing with my clients, take them back on what is supposed to be modified work, and it's not. I go with the injured workers to the place of employment, with one of the WCB reps as well, and nine times out of 10, it's the same job she was doing. I don't feel that's right.

**Mr Karl Crevar:** Could I respond?

**Mr Offer:** Please.

**Mr Crevar:** By the way, I didn't get an opportunity to introduce myself again today. Karl Crevar, president of the Ontario Network of Injured Worker Groups.

I want to respond to your question in terms of the position that we took. We are very strongly opposed to the employer interfering in the vocational rehabilitation. That's enshrined in the legislation, and we are opposed to that part of the legislation.

We feel very strongly that the employer has no right to interfere with any voc rehab programs. How can you justify, in the event, to your question, that an individual cannot go back with the accident employer, yet the accident employer has some say in the voc rehab program? We are very opposed, in that respect, to that part of the legislation.

**Mrs Witmer:** I think it's been said very well. I think there are some very legitimate concerns that we've heard from you, and I thank you very much for your presentation.

**The Acting Chair:** Thank you, Ms Witmer. Oh—my mind's gone. Mr Ferguson.

**Mr Ferguson:** Will.

**The Acting Chair:** Yes.

**Mr Ferguson:** Thank you. It's Dan, isn't it?

**The Acting Chair:** Yes.

**Mr Ferguson:** Thank you very much for your presentation this afternoon. We certainly enjoyed it, and it was obviously straight from the heart.

First of all, I understand your injured worker centre, with a \$5,000 Ontario grant, recently opened an office. The office is still open and operating?

**Ms Madill:** Yes. We maintain it. We used that \$5,000 to pay our rent for a year so we have a roof. It's a drop-in centre for injured workers to come in for a cup of coffee or a game of cards. If they have a problem, they sit and talk to us.

**Mr Ferguson:** How many injured workers would be affiliated with your help centre?

**Ms Madill:** Right now, I have 40-odd cases in the thing, and then we have a lot that we have solved and they still come back to see us. I would say we're about 160 to 180 right now.

**Mr Ferguson:** Finally, you illustrated in your presentation a number of cases. Number 2 is John's case. You talk about John and you outline his particular condition, and you're suggesting that under the proposed legislation, as it is now before the committee, he wouldn't qualify for the \$200 increase that is contained within Bill 165.

Are you aware that the government, this very day, is looking at the \$200 increase and there might be a change to include everybody who would be in this category?

**Ms Madill:** No, I wasn't aware of that.

**Mr Ferguson:** I just wanted to bring that to your attention.

**Ms Madill:** I'm very pleased with that, because that was my main concern.

**Mr Ferguson:** Occasionally, some good things do come out of committee hearings, despite what some people say. Some people have the view that they're just a complete waste of time, but occasionally the opposition and the government can get together and propose some changes that are of benefit to a whole lot of people.

1510

**Ms Madill:** That's great. You made my day.

**Mr Ferguson:** Thank you for attending.

**Mr Crevar:** Could I ask just quickly—I'm not going to take up too much of your time, and it wasn't designed for me to get the rest of the submission from the network put forward. I just want to respond to Mr Ferguson's initial question about the funding from the Ontario government for the Ontario Network of Injured Worker Groups. That was very well appreciated. It took a long time to get, to recognize that we have a use out in the community. I think, as Anne had indicated, the type of work that injured workers' groups do in this province is needed and the resources were needed, even though there was a lot of opposition to injured workers getting some resources, the limited resources. So we're very appreciative of that.



**The Acting Chair:** Thank you very much for your presentation, Ms Madill and Mr Crevar. I know that you've been following these proceedings with, shall we say, more than an interest, as most injured workers are. Hopefully, coming out of here, we will get at least a start on some reforms.

**Ms Madill:** I thank you very much for allowing Karl and me the time. I will take all this back to my injured workers and let them know there is hope for them.

#### CANADIAN CHEMICAL PRODUCERS' ASSOCIATION

**Mr Jeff Murray:** Ladies and gentlemen of the standing committee on resources development, my name is Jeff Murray and I'm a regulatory affairs analyst with Polysar Rubber Corp in Sarnia. I'm here today, along with Mr Norm Huebel, Ontario manager for the Canadian Chemical Producers' Association, to present the CCPA's position regarding Bill 165. I brought along 30 copies of the submission, as well as a number of brochures describing our association.

The Canadian Chemical Producers' Association, founded in 1962, has a membership of more than 60 companies producing a broad range of petrochemicals, inorganic chemicals and other organic and specialty chemicals. The association represents a large portion of the chemical and chemical products industries, which is a key industry in Ontario.

In terms of size, the chemical industry is the third-largest manufacturing sector in the province, with shipments in excess of \$12 billion. The chemical industry is also the sixth-largest employer in Ontario in the manufacturing sector, employing 55,000 individuals. For every person directly employed in the chemical industry, many more are indirectly dependent on this industry for their livelihood, including construction and maintenance workers, individuals employed in the upstream and downstream industries and those employed in service sectors.

The chemical industry is a key player in the provincial economy. It is a large, high-tech, high value-added, export-oriented industry with highly skilled employees earning relatively high compensation compared to other industries. In fact, it is exactly the type of industry supporting exactly the type of jobs the government has said we need to encourage in Ontario.

The chemical industry is one of the world leaders in workplace health and safety. This sector has traditionally had an extremely low rate of lost-time injuries and continues to show a downward trend. I have attached a chart at the back of this submission that shows the lost-time rate for our industry.

The reason for this success is the emphasis that has been placed on effective training and safety programs in our industry which are incorporated into our responsible care codes of practice.

The purpose of this submission is to draw the government's attention to the sections of the legislative amendments proposed under Bill 165 which are of significant concern to our industry. It should be mentioned that the CCPA was an active and vital part of the Premier's Labour-Management Advisory Committee through its representation on the business steering committee. It is

because of this involvement that we are greatly concerned with the present legislative process. The business community has yet to receive a response from this government to the proposals made through the PLMAC submission. Further, the appointment of the board's transition team draws into question the entire process for legislative reform, given the secrecy surrounding their current activities. Finally, the appointment of a royal commission to study alternatives to the present workers' compensation system and the rumoured appointment of a chair who may give rise to a reasonable apprehension of bias call into question the validity of the reform process.

However, in keeping with the CCPA's commitment to the consultation process, we would express the following concerns with regard to the proposed legislation. Although specific, the viewpoints expressed in this document may not address all the concerns of our member companies. For this reason, separate company presentations and submissions are being made to the task force.

The issues of most importance to the CCPA include experience rating and the purpose clause and financial sustainability.

**Experience rating programs:** The changes to experience rating being proposed through Bill 165 mean those companies with good safety records and proven performance will have to subsidize those companies with poor performance. As was mentioned earlier in this paper, the chemical industry has over the years developed health and safety programs which make it a world leader in this important area. This did not occur by chance, but was based upon sound business practices and responsible care initiatives and was strongly influenced by the chemical industry's entry into the new experimental experience rating program in 1987.

Experience rating, as it currently exists under NEER, has proven to be an unqualified success in promoting workplace health and safety. The present system effectively evaluates workplace health and safety through the objective measure of performance. Performance-based measures compare a company's individual accident history to the experience of its peers. Companies with good safety performance and better-than-average claims experience benefit through rebates, while companies with poor accident histories are penalized through surcharges. The present system is pure and simple, and employers in the province can anticipate the benefits of good claims experience and can work towards achieving them.

The changes to experience rating being proposed through Bill 165 add a large degree of subjectivity to the system. No longer would refunds and surcharges be based strictly on performance. Instead, an evaluation of the company's internal programs would be used to determine the availability of cooperative return-to-work programs and the effectiveness of the joint health and safety programs. It is our position that these measures will prove of little relevance in determining the effectiveness of workplace health and safety programs since process cannot predict effect.

The employers of Ontario, injured workers and the Workers' Compensation Board do not need more bureau-



crazy to complicate what has to this point been a highly effective program. In general, we are concerned with the latitude this legislation gives to the board in determining whether or not workplace safety programs are effective in reducing work-related injuries or illnesses and promoting return to work. It is our belief that any efforts to legislate this vital program should be based upon the only true and objective measure of success: performance.

In conjunction with the concerns raised with regard to experience rating we would also like to raise the issue of sector-specific rate assessments. The current rate group structure is based upon sector-specific experience. Our greatest concern is that the legislation leaves the door open for other rate group structures, for example, one average industrial rate, which could provide much less of an incentive in promoting workplace health and safety. No longer would employers have a financial incentive for maintaining good health and safety practices. In our opinion, experience rating, like any other insurance scheme, must continue to be based upon risk and performance in order to remain effective.

The purpose clause: The proposed amendments contained within Bill 165 seek to add a purpose clause to the Workers' Compensation Act. The introduction of a purpose clause into the Workers' Compensation Act was in fact proposed through the accord which was reached between business and labour. This was to have been a balanced clause whereby fair and just compensation would be administered in a financially responsible manner. The purpose clause contained within Bill 165 does not reflect this balanced approach.

The Canadian Chemical Producers' Association strongly supports the worker's right to fair compensation for work-related injuries. We support wholeheartedly the idea of including such statements in the purpose clause of the act. However, we feel equally strong that the purpose clause must also contain provisions such that the board will conduct its business in a financially responsible manner in order to ensure the viability of the workers' compensation system in Ontario. Otherwise, based upon current projections for the growth of the unfunded liability, there may not be a workers' compensation system to administer fair compensation to the injured workers in Ontario.

It is recognized that provisions do exist within the amendments, specifically to amend section 58, to require the board of directors to act in a financially responsible manner. However, without such provision entrenched in the purpose clause, this requirement will lack the strength necessary to ensure the long-term viability of the board. Consequently, we implore the government to amend the current proposals to promote financial sustainability of this system by including provisions in the purpose clause to this effect. This responsibility must be extended to all aspects of the workers' compensation system.

1520

In conclusion, we feel that a balanced purpose clause must be included in the legislation in order to ensure that adequate attention is given to the present crisis within the workers' compensation system in Ontario.

Finally, the Canadian Chemical Producers' Association

continues to be an ardent supporter of the consultation process and would be quite willing to discuss this submission further at your request. We strongly request that the government address the concerns raised by this submission before proceeding further with the legislation. We most emphatically implore the government not to proceed with the changes to experience rating and the assessment processes currently in place at the board. This program has proven successful in promoting good health and safety practices in the province.

Currently, the assessment rates for the chemical and chemical products sector are well below the provincial average. Any movement towards a regressive system of assessment would certainly have a significant effect on our fixed costs. As was discussed earlier, the chemical and chemical products industry is a key industry in Ontario. We have done the right things with regard to safety and health for our employees and we have the results to prove it. We must, however, continue to compete in a global marketplace and we are very concerned that the proposals contained within Bill 165 will penalize an industry that is a world leader in health and safety and would add millions of dollars in annual fixed costs to our operations.

Thank you. We'd be happy to answer any questions.

**Mr Offer:** Thank you for your presentation. I must say I agree with you in your discussion, specifically around the purpose clause. I think it is absolutely clear that this legislation does not put all of the WCB and all of the appeals process in any way, shape or form under any sphere of financial accountability and that the purpose clause is fatal in the fact that it does not take in everyone around who might have any dealings with workers' compensation.

I guess my question around the purpose clause is the fact that the appeals tribunal is not covered by the financial responsibility. I'm wondering if you might be able to expand a bit on that.

**Mr Murray:** Sure. Presently, the way the appeals tribunal operates, they are setting policy for the Workers' Compensation Board merely by the decisions that they're making on claims. There's nothing that dictates that the appeals tribunal must make these decisions with any respect to the financial burden that's going to be placed upon the employer community resulting from their decisions.

I think that the appeals tribunal must be brought in under the Workers' Compensation Board such that the decisions they make are within the bounds of the present Workers' Compensation Act and that they not give rise to new policy simply by their decisions, without some type of financial assessment being done to, I guess, evaluate what burden they are placing on not only the employers of Ontario today but the employers of the future.

**Mr Offer:** Just to carry on with that, we have asked this question of the ministry and ministry staff as to whether the appeals tribunal is in fact taken in by these amendments and has any obligation of financial responsibility. To date, we have not yet received a response, and I am wondering if there is yet a response from the

ministry or ministry staff as to whether WCAT, the appeals tribunal, can in fact prescribe something and force the board to implement a decision that it has made.

**Ms Murdock:** As Mr Offer well knows, there is a review process under the existing act that if WCAT makes a decision that the board would like to have reviewed, they can so ask, but if WCAT decides that for whatever reason their decision stands, there is nothing under the present legislation or under Bill 165 that would allow the board to tell them they couldn't do it.

**Mr Offer:** In other words, if somebody wished to have stress compensable and went to the board and the board said, "We understand everything that's being said, but we have this obligation to act financially responsible and as such refuse that coverage," and then the person appealed that to WCAT and WCAT is not acting, or does not have the same impediment, then in fact WCAT can say to the board, "You make stress compensable," and the board must comply.

**Ms Murdock:** On that case, yes. On the individual case, yes.

**Mr Offer:** Isn't there a possibility that as that—

**Ms Murdock:** It has not become a policy of the board, Mr Offer, you know that.

**Mr Offer:** Isn't it a possibility that because that is in fact very real and very possible, the numbers as to the unfunded liability—what the financial situation of the WCB will be in 20 years, might be totally out of whack?

**Ms Murdock:** The whole point of WCAT, as you know is it's an independent agency and has to remain outside the board's parameters and you know that.

**The Acting Chair:** If I might interrupt, it is the question that was being put to the board and therefore obviously us discussing it—

*Interjections.*

**The Acting Chair:** Ms Witmer.

**Mrs Witmer:** In your introduction you make reference to the fact that there are some questions concerning the transition team and some concern around the secrecy surrounding their current activities. I don't know if you were watching or if you saw what happened on Monday, but we had the former deputy minister in here, Mr Thomas, and I did ask him some questions about the activities of the transition team because, as you know, they have now brought forward some recommendations. He had a bit of a lapse of memory around some of the questions I asked him. However, the one thing I know for sure I can tell you is that the business community has never signed off on any of those discussion papers, so what's on the table right now is a very one-sided proposal. I just share that with you.

You have expressed your concerns here primarily about two issues: number one, of course, the purpose clause. We had a group this morning, one of the chambers, mention to us, even if nothing else was changed other than to reintroduce the purpose clause that had been agreed to by the PLMAC business group—do that and we could live with it. Do you have any opinion on that at all, or is experience rating a strong issue for you as well?

**Mr Murray:** Maintaining the present system of experience rating is certainly a strong issue for the Canadian Chemical Producers' Association. Implying workers' compensation to act within a fiscally responsible manner certainly is of the utmost importance to our association. Because we're such a good performer within health and safety, and because our premiums are still significantly high, we feel that experience rating, as it currently exists, should be maintained. The present proposals for amending experience rating tend to add procedural things and processed the equation, and these don't predict success in health and safety, so we're strongly of the opinion that we need to maintain NEER, or experience rating as it currently exists. Certainly, the financial responsibility that would be maintained within the purpose clause is of the utmost importance to our association.

**Ms Murdock:** It was never our intent to change the NEER but I understand the concern on the interpretation or the possible interpretation, that's why we put the amendment through using the exact language of the PLMAC final agreement that was never agreed to. It's strange, you know, the way the whole history of this PLMAC agreement came. If we were to do what business suggested in November, it would have been to put in Friedland, it would have been to reduce benefits to the worker from 90% to 85%, and it would have been severe restrictions on entitlement. With discussions, by March it had come to Friedland, but leave it to the government to decide whether any kind of consideration should be given in terms of who the workers should be, and we did that by picking up the \$200.00 and giving that to it, but maintaining Friedland.

**1530**

Admittedly, there are the areas that the business community—sorry, the PLMAC agreement left to the government of the day. We have made the decisions and those seemingly seem to be the areas that you don't like.

I find it frustrating, I guess, for me to sit there and know that the present transition team is headed up by Ken Copeland, who was on the PLMAC business steering committee and was very much a part of the entire discussions through the whole process. He's in the paper being quoted as how the pace of the increase was \$51 million—I'm looking at a Globe and Mail article here—lower than in the first six months of 1993. That's just now, the six-months report on the Workers' Compensation Board, and that the changes are already occurring, that they are working and that the unfunded liability concerns are absolutely there but the purpose of the act is for a system that protects workers.

I don't see where—explain it to me, if you can—how the act was put in place with, "Well, we'll cover that disease or that injury only if it doesn't cost us too much money."

**Mr Murray:** You've raised two points. First of all, what this legislation does is cherry-picks from the PLMAC accord and fix the pieces that provide the fair compensation to the workers without providing financial sustainability and responsibility that the labour representatives had also agreed to.



Secondly, Mr Copeland, although he's a fine person, wasn't necessarily the first choice of business in being the head of the transition team for WCB. If you had approached business and asked who they might want to represent them, you might have had a different answer than Mr Copeland.

**Ms Murdock:** But business had walked away.

**The Acting Chair:** I'm afraid I have to cut it off at this point as we are over time. Thank you, gentlemen, for coming before us and, as I said to the last presenters, everyone has a keen interest in WCB. I know you'll be watching as time goes on and our deliberations continue.

**Mr Mahoney:** Can I ask for a point of clarification? I understand there was a comment—and I would ask for clarification by Mr Ferguson—something about the government thinking of extending the \$200 supplement to all injured workers. Is that something that's under consideration or an amendment that we should be privy to? I'm sorry, I wasn't here, I was given it second hand.

**Mr Ferguson:** I simply said that is an issue that has been brought before the committee, like many other issues, and that will be one of the issues that I'm sure this committee will want to discuss and I know the government will want to take a look at.

**Mr Mahoney:** It's not an amendment coming from the ministry at this time?

**Mr Ferguson:** Not at this point, no.

**Mr Mahoney:** Is the ministry considering such an amendment, to your knowledge?

**Mr Ferguson:** That's what the hearings are about.

**Mr Mahoney:** It's one thing for us to consider it or for you to say it, but I was told that you said the government is considering this at this moment.

**Mr Ferguson:** No, I can't—

**Mr Mahoney:** If that's not what you said, I'm happy to accept that.

**Mr Ferguson:** I can't remember what my exact choice of words was, but I'm trying to explain to you that the government members here are listening to all the concerns being expressed. One of the concerns I picked up on was the question of the \$200 and I'm telling you the government is prepared to look at that as we are prepared to look at all the issues that come before this committee.

**Mr Mahoney:** Thanks.

PROVINCIAL BUILDING AND CONSTRUCTION  
TRADES COUNCIL OF ONTARIO

**Mr Pat Dillon:** Good afternoon. I'm Pat Dillon, president of the Provincial Building and Construction Trades Council. With me are a couple of resource people, Julie Nielsen and Alex Lolua. As I think all of you probably know, usually Joe Duffy would be with us today, but Joe's off sick right now. We just want to say hello to him and tell him we're batting on his behalf.

**Mr Hope:** It's not a workers' comp issue, is it?

**Mr Dillon:** I'm not going to say no to that.

**Mr Mahoney:** That would be the mother of all claims.

**Mr Dillon:** Well, we had a little discussion earlier on here I listened to about stress. I'll begin.

The Provincial Building and Construction Trades Council of Ontario is an umbrella organization which represents over 100,000 unionized construction workers in this province. We represent 13 different international unions comprising 116 affiliates which perform work in all facets of the construction industry. You have heard from some of our affiliates we represent, and will hear from many more during your deliberations on Bill 165.

As you can well imagine, a construction site can be a dangerous workplace. The 1990 amendments to the Occupational Health and Safety Act expanded the rights and responsibilities of workers within the construction sector. Even though the focus of the Ontario health and safety legislation is on prevention and construction is becoming safer, workers are still being injured at an alarming rate. Injured workers are faced with not only the trauma but also the financial burden that accompanies an injury.

We first of all want to commend the government for initiating reform of the compensation system in Ontario. Many of our affiliates across the province have voiced concerns as to whether the present system is adequately working for our injured workers.

The construction industry is the second largest employer in Ontario. Construction employs more people than the auto and steel industries together—or either, I guess. Despite this, construction was not invited to participate in the Premier's Labour-Management Advisory Committee discussions on the reform of workers' compensation. This is totally unacceptable. Our concerns have been borne out by the contents of the present reform package. Issues that affect construction were not addressed by Bill 165.

Construction differs from a claims perspective within the compensation system. The Workers' Compensation Board established a construction unit separate from the other integrated service units to address the needs of the injured construction workers. This suggests that the board acknowledges the uniqueness of this sector but, in practice, this is not necessarily the case.

A good example of a lack of understanding of the construction industry is found in section 54 of the act, dealing with the re-employment of injured workers. The amendment dealing with section 54—section 10 of Bill 165—does not address the construction issue at all. Bill 162 saw the introduction of section 54, which deals with the injured workers' right to reinstatement. Initially, construction was excluded but was subsequently included through regulation 259/92 that came into effect in June 1992. It quickly became apparent that there were still shortcomings in the return-to-work provisions of the act as it relates to construction. A letter to Jim Thomas, then Deputy Minister of Labour, from Joseph Duffy, the council's business manager/secretary-treasurer, dated April 13, 1994, made the government aware of our concern.

For those of you not familiar with the construction industry, you should be aware that it is (1) characterized by short-term employment where construction workers



seldom work continuously for one employer beyond one year; and (2) most contractors or subcontractors employ small crews with less than 20 employees.

Thus, the majority of construction workers are denied the right to re-employment by virtue of subsections 54(1) and 54(16) of the present act. As a minimum, the government needs to address the issue of section 54 and how it affects the construction workers' re-employment rights because of the general nature of the industry.

The amendment dealing with section 8 of the act raises some concerns for the construction industry. The amended section deals with jurisdictional limitations for payment of compensation benefits. An accord has recently been implemented between the provinces of Ontario and Quebec with the intent to allow construction workers to work in either province. Also, the premiers of this country have signed accords to reduce interprovincial trade barriers.

This section has the potential to affect workers who work in different provinces and suffer occupational disease and/or repetitive strain injuries. Construction workers have a history of mobility across provincial boundaries and therefore could be adversely affected by this new amendment. We also question if this section will apply only to compensation benefits or will it also affect auto insurance, long-term disability and possibly unemployment insurance, both sick and regular benefits.

1540

Full indexing on injured workers' benefits was attained in 1985 and the thought of removing this provision is unjust at the very least. The de-indexing of benefits to injured workers shifts the burden of cost from the employers on to the workers. It reduces the benefits that should come from the compensation system and shifts it on to our social assistance system. The construction industry has many workers who have suffered permanent disabling injuries that restrict them from ever returning to the jobs they performed prior to their injuries. The Friedland formula and the de-indexing of injured workers' pensions put their financial security at risk.

We have heard so much about the billions of dollars that could be saved by this measure. It has to be made clear that these savings will come directly from those who can least afford it: our injured workers. It is hoped that the present full indexing formula will be retained.

The unfunded liability is expected to reach \$31 billion by the year 2014 if the system remains the same. Simply, this liability is a difference between the board's assets and the costs associated with workplace injuries. Employers across this province must be made responsible for these costs and not attempt to negate their responsibility by dissolving numbered companies or changing the name of their company so they won't have to pay their compensation assessments. We have heard about the worker fraud, but what about the employer fraud? Let's find these employers who are delinquent in payment of their assessments and possibly then the unfunded liability would be reduced.

Any discussion on workers' compensation would be remiss if it did not include discussion on the birth of the

concept. Workers' compensation was initiated in large part to protect employers from being sued by injured workers. There is a recent court judgment in which a patron of a famous restaurant in the United States was burned by coffee and was awarded almost \$3 million. There are injured construction workers who have lost arms and legs who will never receive anything close to this amount of compensation. If employers want the protection that workers' compensation offers, then there must be some cost associated with that protection. Nobody wants to see a company go out of business because of a lawsuit. On the same hand, nobody should have to suffer financially because of injury.

Construction workers, as a result of a workplace injury, suffer personal financial losses when they cannot return to their pre-accident jobs. The proposed \$200 increase is limited to workers injured before 1990 who are still unemployed. Considering the number of years that construction workers have been providing service within our province, one can well imagine the numbers of injured construction workers who might qualify for this pension increase. But the amendment further restricts those who qualify and this is not justified. Any worker who was receiving a monthly pension and is aged 65 on or before July 26, 1989, should be included. Bill 165 has not addressed this group.

Bill 165 addresses rehabilitation services but the changes that have been recommended are not ones that the construction industry believes would benefit our workers. Certain amendments within vocational rehabilitation could possibly limit the workers' ability to obtain such services and, ultimately, compensation benefits. Within the proposed amendments, the board would be able to determine if it would be appropriate for both the worker and the employer to receive such vocational rehabilitation services.

What if it was determined that the injured construction worker would participate in the job search phase of his vocational rehabilitation plan in the month of January? These services could be denied to him because of the lack of work within our industry in the winter months. In essence, the board could determine that it would not be appropriate for a construction job search in the winter months when the chance of getting a job is much less than in the spring, summer or fall. Is that fair?

The sections within the amendments that deal with the new bipartite governance structure are a welcome change from the present administration. The construction industry is a strong advocate for equal representation, particularly on something like the board of directors of the Workers' Compensation Board. It is recommended that when the proportionment of directors is allocated construction be considered as a major player in the Ontario economy. This direction would allow a workers' perspective in decisions that affect the recipients of compensation benefits. We support the change in governance.

We must come back to the key issue that I believe is fundamental to any reform process. Construction did not have any representation during the deliberations of the Premier's Labour-Management Advisory Committee. As a result, the concerns of construction workers were

overlooked and the issues that I have brought to your attention this afternoon were not included in Bill 165. The royal commission on the workers' compensation system must hear from all sectors of the economy in this province, including construction, and it must address the entire compensation system.

**Mr Mahoney:** Thanks very much, Patrick, for that. On a couple of the points that you raised, I think it was the Labourers' International Union—I forget which local—that came before us and suggested an amendment to establish a bipartite committee of management and labour to deal specifically with construction issues and advise the WCB, a formal structure—not an appointment in council and not 200 bucks a day, so don't start getting excited, people—a committee to recognize the significant differences and uniqueness of construction. While we didn't get a chance, because of the time, to publicly ask the people from COCA if they would support this, I did ask some of them in the hall and they were quite enthused. How would you feel about something like that?

**Mr Dillon:** I would support a bipartite approach that deals strictly with construction, although I noticed in COCA's brief, and I just had a minute or two to read it before I came up here, that it seemed to me that their approach leaned away from that, that the compensation system should be handed off to people who are unbiased. I don't know just what terminology they used in their—

**Mr Mahoney:** No, I don't want to get into a discussion on their brief.

**Mr Dillon:** That it should be given to independents.

**Mr Mahoney:** They were talking about the board. I'm talking about a separate committee, bipartite, to give advice. However, I want to ask you about the governance of the board separately. But I'd just like to know, the Labourers proposed it. Unofficially COCA, I think, would support it at this stage of the game. I just wonder if that's something that makes some sense to you.

**Mr Dillon:** Yes, it would.

**Mr Mahoney:** On the governance issue, you've got to help me with this. You know I've been through this WCB stuff a lot and for a long time have talked to a lot of people. You and others, particularly from the trade labour movement, come forward and say that sections within the amendments that deal with the new bipartite governance structure are a welcome change. I look at the sections and I see the change being the addition of two citizens recommended by labour and management. There are four labour representatives on the board. There are four management representatives on the board. I don't see a substantive change in what currently operates, by and large, as a bipartite system. What's so new and important under Bill 165?

**Mr Dillon:** I'll let Julie respond.

**Ms Julie Nielsen:** The makeup of the board right now, from our position, is not bipartite. We don't have the equal say that we would have under the new system. You're correct in that there would only be two new people added to it. But I also believe that within bipartism you're looking at removing the head of the way the administration is within the board right now. That is

the way we view it. Certainly moving to a bipartite system would bring more information in from the workers' aspect of it.

**Mr Mahoney:** You see, in the administration I can see a change, hiring a president and CEO. That's something that I recommended in my report and think is important. Other provinces have done it and it's been effective. But the actual makeup of the board, except for the addition of two people recommended by the two interest groups here, doesn't seem to me to be a major change.

Your section 8 amendment: I think this is important. Obviously the intent of this would be that you don't want an injured worker travelling from province to province getting injured from province to province and collecting 10 pensions across Canada from workers' compensation systems. I don't think anybody wants to see that happening. Would an amendment that would put some sort of a cap on it, or something of that nature, satisfy you? Because construction is so unique—and we saw the war between Ontario and Quebec over this, and we particularly see it in the border communities, whether it's Kenora or whether it's Ottawa-Hull—there's a lot of mobility in the construction worker. I understand that and have come to understand a little more about your business since my time as the Labour critic. But there's got to be a balance there. I don't know how we put a wide-open amendment that just allows anybody and everybody to collect pensions all over the country.

1550

**Ms Nielsen:** That wasn't the intention when we looked at it. Having dealt with the compensation board, what we find is that at different times within the structure of the act right now there are different directives that come from the board which change the way benefits are paid. The concern we had with this section was that with construction workers who, say, work in Manitoba and develop hand/arm vibration, the way the section is read right now would limit them from using their work experience in Manitoba when they're being look at for assessment here in Ontario.

**Mrs Witmer:** Thank you very much for your presentation, Patrick. I'd like to say hello to Joe if he's watching. I'm sorry he's not here. It's always a pleasure to talk to him. I quite do enjoy him, so I'm sorry he's not well.

Anyway, you indicated here, and I would certainly agree with you, that "the majority of construction workers"—it's on page 3—"are denied the right to re-employment by virtue of" section 54. As an absolute minimum, you indicate there's a need for the government to address the issue of 54 and how it does apply to the re-employment rights of the construction worker. What exactly would be necessary for the government to do to address that specific issue?

**Mr Dillon:** I think that because it's such a complex issue. On the question that Steve asked earlier about a bipartite committee, that's the type of issue that a bipartite committee could deal with, and it needs to be bipartite because all the concerns have to be on the table. A bipartite committee could handle even the interprovincial question that was raised earlier.



In fact, I sat on a committee a few years ago back in Hamilton to try to deal with this, and it was a very complex, difficult issue to deal with. I think the only people who can deal with it are people from the industry who know how the industry works. I couldn't give you an answer today, although—I'll put it this way—construction workers, whether they're working for a company that has five people or 100 people or 500 people, shouldn't be treated any differently than people in other industries. Somehow we have to come up and—I'll say this to Mr Surplis of COCA—it may be that construction needs to put a fund from the industry to look after that, but the workers who get injured in the industry shouldn't be the ones who are responsible for that.

**Mrs Witmer:** Right. So then this is one issue that certainly could be addressed if a committee was set up specifically devoted to construction.

**Mr Dillon:** Yes.

**Mrs Witmer:** I notice that you did write a letter asking to be included in the deliberations of the PLMAC. Did you ever get a response to the letter?

**Mr Alex Lolua:** Yes. We received a response from the Premier basically acknowledging that it was left over and that we'd try to be included in anything in the future. Yes, we did get a response from him.

**Mr Hope:** First of all, the question's been asked, how does the board change? Well, the board itself will appoint the chair. Recommendations—the government will support it. The CEO is chosen by the board of directors. That's a change in itself, the CEO. It's now by the hands and the whims of the government who chooses to be that.

One of the comments that was raised in a presentation earlier, on page 8 of the brief that was given by COCA, the Council of Ontario Construction Associations, clearly pointed the finger at the union for not allowing an injured worker to have a travel card to get back to work off of disability. When allegations are being made, there's always another side of a story or an opportunity to refute that comment. I think it's important because I've heard you say that re-employment is a priority, and getting your members back to work, but it's been indicated in somebody else's brief that the union itself has stopped the issue of a person to be re-employed.

**Mr Dillon:** I don't know of any case where the union has done that. I know there had been discussion among the unions and the employers on that issue some time back. But it's the kind of issue that we would have to resolve. Talking about the mobility of construction, just to give people an idea of what could happen, if a person was working in Sudbury on a three-week job and was injured—or he could have been here for a year, I suppose. He could have been here for a year and was injured and went back to Edmonton or wherever he is from. Two months after he's left the job is completely finished and the only job that employer has when the person is ready to come back to work is in Newfoundland or in Ottawa. There are some difficulties around that issue, but no one should take from the fact that there are problems with it, that the unions aren't interested in having re-employment for their workers, because we are.

**Mr Hope:** I address that question to you because there was a letter read in the presentation; it was addressed to Mr Offer. I think it's always important to get across that there are two sides to every story.

In your presentation you stated that there's still a high accident rate. According to this presentation, they're saying there isn't, it's a major reduction. The one thing they did say in the presentation was, "The workplace is only as safe as the worker beside you." I'm wondering if you might have an opinion about that, because that clearly indicates to me that the unsafe condition is created by the coworker versus the work site.

**Mr Dillon:** We could get into quite a long discussion on that. The accidents, in general, that happen on a construction site normally aren't caused by your partner; they're caused by the work site itself, as you've pointed out, some lack of training or whatever, but certainly not by your partner. I've sort of been taken to task on making a comment something similar to that but it was taken out of context, actually, where I had said that if you're on a construction site and there are 50 people there and 49 of them have been trained in safety and one hasn't, the one person can put others at risk. There is that component to construction and I think probably any other work site as well. But the comment that's in COCA, I'd have to take that to task. That's shifting what is really causing the accidents. Training in our industry and the certification program that we're experiencing right now, although we haven't seen the long-range results of that, I think will help our industry.

One of the charts COCA has in there about the reduction in the number of accidents, I don't know if that's done per man-hour worked or not, but we are in probably the worst recession that this country has been in, so we're working a heck of a lot less hours—50% less hours.

**The Vice-Chair:** On behalf of this committee, I would like to thank the Provincial Building and Construction Trades Council of Ontario for their presentation.

**Mr Mahoney:** The Premier says the recession's over.

**Mr Dillon:** We'll put a call in.

**Mr Mahoney:** Give him a call. Maybe he's got some jobs for you.

**Mr Dillon:** Phone the hiring hall and we'll fill the calls.

**Ms Murdock:** I just have a correction. I stand to be corrected by my honourable critic. I think I said that Ken Copeland was the head of the transition team, and he isn't.

**Mr Mahoney:** I didn't hear you.

**Ms Murdock:** Anyway, he's the CEO and Bill Blundell is the head of the transition team.

1600

EXTENDICARE HEALTH SERVICES INC

**The Vice-Chair:** I'd like to call forward our next presenters, from Extendicare Health Services Inc. Just for the committee's information, we have had a cancellation with Westin Harbour Castle hotel. This group is scheduled. They have a function this evening, so we've moved them up.



**Mr Gary Chatfield:** I'm Gary Chatfield, president of Canadian operations. With me is Irene Krahn, director of our occupational health and accident prevention.

Extendicare is a Canadian company based in Markham, Ontario. We are in the nursing home, retirement home, chronic care and home care fields. We have approximately 10,000 employees throughout this province and we currently have a WCB assessment of about \$4 million.

As a significant employer in Ontario, we're very concerned about workers' compensation and Bill 165. Again, we appreciate the opportunity of expressing our views. We hope they are helpful. I'm going to ask Irene to make the body of our presentation and then throw it open for questions and answers.

**Ms Irene Krahn:** Mr Chairman and members of the committee, you have a copy of our submission. I am going to just highlight some aspects of the submission in the interest of time, and then of course we would be open to questions following that.

I will begin with our comments on the purpose clause. Bill 165 is proposing that a purpose clause be added to the act. The purpose, as stated, is incomplete and can be supported only if it's balanced by the commitment that this be carried out in a financially responsible manner.

The Premier's Labour-Management Advisory Council has advocated that in addition to what is proposed the clause should require that the board of directors exercise the highest level of financial responsibility and accountability in administering the workers' compensation system in Ontario; ensure that any proposed change benefits services, programs or policies be thoroughly analysed to evaluate overall consequences; and never expand entitlement to the competitive disadvantage of Ontario businesses.

As Bill 165 now reads, the deliberate omission of the "competitive" clause will compel the compensation board to expand entitlement and then require the board to pay for the expanded entitlement. Since the prime source of revenue is through employer assessment, the required money would be raised through the increased assessments, without any consideration of the competitive disadvantages to Ontario business.

Throughout the submission I would like to highlight our recommendations. Our first recommendation is that we recommend that the purpose clause be expanded to include a requirement for the provision of compensation to be carried out in a financially accountable manner respecting the competitiveness of Ontario business.

Further, we would like to comment on the governance issue. The board structure particularly is of concern to us. Bill 165 proposes a new bipartite structure for the WCB board of directors. I know that there has been considerable discussion around this. This bipartite structure parallels that of the board of the Workplace Health and Safety Agency. The agency bipartite model has created a board that is polarized and adversarial. It discourages meaningful discussion and allows control of the agenda by one side or the other.

We believe that neither management nor labour should be able to control the agenda. The structure of any

responsible board must allow for both labour and management to work cooperatively towards common goals. We believe that the board structure should reflect a wider representation than proposed in Bill 165 and include representation from major stakeholders such as the insurance field, occupational health and safety professionals and medicine. Each of these disciplines represents an important aspect of compensation.

Organized labour represents only 26.9% of the workforce in Ontario. Surely the remaining 73% of the workforce also deserve to be heard. Unorganized workers need to be represented on this board by way of increased public membership.

Neither management nor organized labour necessarily has the required expertise or training to provide effective governance to an organization as complex as the WCB.

Therefore, we recommend that the structure of the board be broadened to reflect a wider representation of stakeholders, including, as I already mentioned, increased representation from unorganized workers, physicians, occupational health and safety professionals and the insurance industry in addition to the management and labour component as proposed.

The option for the board to appoint the president or CEO is a sound one, if there is assurance that the candidate will be chosen in open competition for administrative ability, knowledge and a proven track record in the management of large, complex organizations. Expanded board structure, as already described, we believe would allow for the achievement of the board mandate and ensure non-partisan appointment of the president or CEO of WCB.

We therefore recommend that the president be selected through open competition and for recognized expertise and ability in the management and administration of large corporations.

One of the fundamental principles espoused by Justice Meredith when setting up the Ontario compensation system in 1915 was that it should operate independently from government and apart from the political process. Bill 165 departs from that principle with the proposal in section 17 that government will have the authority to issue policy directives and approve all board action for one year from the date of Bill 165 becoming law. The politicization effectively renders powerless any board of directors and makes a mockery of their fiduciary responsibilities. If a board is to be appointed, it should be allowed to operate as a board.

We recommend that the independence of the board be preserved and that section 17 be rescinded.

We believe that the responsibility for health and safety in the workforce is a shared responsibility between management and employees. Injured workers should not be discriminated against, but neither should they be advantaged.

The costs of benefits rose from \$1.6 billion in 1988 in Ontario to \$2.4 billion in 1992. This is an increase of 50%. During the same time, lost-time accidents decreased by 30%.

In spite of this disparity, Bill 165 proposes increases in

benefits which will add in excess of \$1 billion to the unfunded liability immediately and \$6 billion over the next 20 years through continued full indexation benefits for approximately 45,000 employees who were injured prior to 1990 and who continue to receive benefits and the enhancement of pensions of an additional 40,000 workers by \$200 per month.

No one wishes to see injured persons suffer unfairly, but in a system which is threatened by virtual collapse because of insufficient funds, such a proposal should not be made until a complete and accurate cost analysis has been made of both the short- and long-term impact of such enhancements. The financial integrity of the system is critical to the continuation of all benefits.

We recommend that section 32 of the bill be revoked, pending a complete and accurate cost analysis to determine the full financial burden of proposed enhancements and the impact on the system overall.

The adoption of the Friedland formula will benefit future costs rather than bring about any immediate cash savings. However, this is a modest initiative to address the financial crisis and, as such, we support the principle.

We recommend that the application of the Friedland formula as outlined in Bill 165 be accepted.

Any proposed WCB reform in Ontario should include measures for the elimination of the unfunded liability, which currently stands at \$11.5 billion. Employers in 1984 willingly accepted three years of 15% increases in assessments followed by three years of 10% increases in assessments in an attempt to address the growing financial crisis. The unfunded liability continues to escalate, currently by \$2 million per day. It is essential, we would like to repeat again, that financial soundness be restored and immediate measures taken to reduce the unfunded liability in ways other than increased assessments.

#### 1610

The business caucus of the PLMAC recommended a number of actions necessary to restore financial integrity. These were not radical suggestions but would move Ontario in line with practices and benefits in other jurisdictions in Canada. We support this position that strong measures are needed on a number of levels and recommend that measures be taken to work towards reducing the unfunded liability, which would include a redefinition of accident, a reduction of benefits to 85% of take-home pay, a reduction on future economic loss awards and a reduction in benefits for strains and sprains after 26 weeks. Other steps need to be taken or continued with renewed vigour in conjunction with the preceding to bring spending in line with revenue. Accountability needs to be re-established.

We therefore recommend that there be a focused initiative launched by the board to reduce costs through streamlined administrative practices, aggressive investigation of fraud and increased recoveries through improved investment initiatives.

We would like to comment on the experience rating. Both business and the board agree that experience rating has met its objectives. Accidents have decreased, as already stated, which was one of the prime objectives; the

severity of the injuries has been reduced; and rehabilitation has been promoted and provided to injured workers.

With Bill 165, the government is proposing to abolish the current successful experience rating programs and substitute a complex set of criteria that eliminates performance-based experience rating. It is likely that refunds will be reduced, if not eliminated, and surcharges increased through subjective investigation by the WCB.

Through this, the board is provided with unsurpassed interventionist powers, which will further damage Ontario's competitiveness in the marketplace and the ability to attract new industry.

The board proposes to audit each employer's premises to determine compliance with some as yet undeveloped standards regarding health and safety practices, vocational rehabilitation practices, return-to-work programs and "such other matters as the board considers appropriate." We feel that this is a duplication, as these areas are currently all covered elsewhere in legislation in either the Workers' Compensation Act or in the Occupational Health and Safety Act. We believe the experience rating system is a proven workable program and its integrity should not be undermined.

We therefore recommend that section 28 of the amendment be removed and strongly urge that the NEER system remain in place.

At the same time that the government is increasing its demands on employers for health and safety programs and programming, it has moved unilaterally and in a hostile manner to destroy the organizations that have provided health and safety education support to a number of industry sectors, including our own, as well as tourism and education, through the destruction of some of the delivery organizations and the actions of the Workplace Health and Safety Agency. We find this deplorable and cannot understand why with one hand we are being asked to provide greater programming and yet our support services, for which we have contributed to the board, are being withdrawn or have been withdrawn.

Bill 165 gives sweeping powers to the board for future inclusion of a wide range of conditions "so that generally accepted advances in health services and related disciplines are reflected in benefits, services, programs and policies."

There is no mechanism of accountability in this statement. In the past, the system has embraced ever-widening entitlement policies to adjudicate disablements—repetitive strain injuries etc—without any pretence at cost impact analysis or thorough study of the issue. Some balance must be provided which will establish a process to allow expanded benefits as warranted while ensuring accountability.

Bill 165 gives the WCB the power to review, on its own initiative, whether an employer has fulfilled their re-employment obligations. There needs to be no evidence of non-compliance or even a problem occurring before an investigation is started. These powers we believe are intrusive and unjustified.

Since 1990, the reinstatement branch of WCB and the Workers' Compensation Appeals Tribunal have taken



radically different approaches to interpreting the legislation. This has resulted in confusion and discrepancy in decisions. Until such time as the fundamental obligations of this legislation are clarified, there should be no new legislation. We therefore recommend that the discrepancy in the current legislative obligations regarding reinstatement be clarified before broader initiatives are proposed and accepted.

Bill 165 also provides some initiatives regarding vocational rehabilitation. These appear to go against the board's recently developed strategic planning incentives for vocational rehabilitation. Surely the overall objective should be to reduce claim length, not to extend it. We believe the insertion of yet another level of negotiations or mediations is unwarranted and counterproductive.

We therefore recommend that sections 20 and 21 be revoked and efforts be made to reduce claim lengths through administrative processes whenever possible.

We are concerned with the vagueness and lack of objective criteria to define "failure to cooperate in vocational rehabilitation services." The board, through Bill 165, is granted power to penalize the employer, including the levying of increased assessment rate, if necessary.

We recommend that a review of the board's powers to penalize employers be carried out, that these powers be coordinated in one section of the act and that objective criteria be established so that punitive action, if necessary, be applied in a consistent manner after the employer has had an opportunity to be made aware of obligations to which he must comply.

We are pleased to be able to present this submission and we hope the comments and recommendations contained in it will contribute to the ultimate reform of WCB so that it can better serve all its constituents and so that it can continue to serve them.

**Mr Mahoney:** I'm pleased to see your recommendations around involving other stakeholders. As you may know, I certainly support that and made the same recommendation in my document. I think that's critical.

The health and safety agency I know has been the love of your life and mine from time to time. I think it should be shut down and made a department of the board, reporting directly to the board of directors, who happen to be the people who pay the tab for the health and safety agency, and allow for the sector-specific training to be done by the people in the industry who have the experience, because I highly doubt that your folks need to know too much about mining or other such things, or indeed about how to pass legislation, which is one of the criteria in the health and safety training program.

I guess that's a comment, and I wonder if I can open a door for you to either agree or disagree with me and add to those comments.

**Ms Krahn:** I think we do not disagree with you, Mr Mahoney. In fact, we do agree with you. We certainly support the statement, as we said that we feel that all stakeholders must be represented in the complete compensation process, and we feel that health and safety training is an important part of the overall health and

safety program within the province. We deplore the actions the agency has taken and the way in which the agency has perceived its mandate and gone about carrying out that mandate to in fact, we believe, a regressive path for health and safety education. So we would certainly agree with you. We do have concerns regarding the certification process and the developing sector-specific certification process, which we understand is in fact increasing the commonalities of the training as opposed to looking at those aspects that are unique. And, yes, we do not believe we need to be trained in mining or construction.

1620

**Mrs Witmer:** Since there isn't any time left, I simply want to say I'm pleased that you have a recommendation here suggesting that the CEO be selected through open competition based on their expertise and have ability in management. The Ontario PC Party has been supporting that now for four years. We think it's absolutely necessary that someone have the expertise necessary to run this as a business.

**Ms Murdock:** I know we're running short of time, but it was very extensive. I don't disagree either with what Mrs Witmer said. The only thing is, I know some people wanted it specifically and explicitly stated in the agreement, for instance, and then in the legislation, and we felt that the board of directors, as a board of directors, as in any company, should have the right to set its own criteria as to what it's looking for. But, again, if you're truly operating as a board of directors and you have management responsibilities of that organization, then you should be running the show and it shouldn't be a government-appointed chair or otherwise.

**Mr Chatfield:** Certainly on the principle we could not but agree with you. That's why we found it awkward in the one section where the government had the prerogative of issuing policy directives for one year.

**Mr Mahoney:** Hear, hear.

**Ms Murdock:** That's only for the period of transition.

**Mr Chatfield:** So if you've got a board, yes.

**Mr Mahoney:** Right on.

**Ms Murdock:** It's only for the period of transition. That's the only reason it's there.

**The Vice-Chair:** I'd like to thank Extendicare Health Services Inc for giving us its presentation this afternoon.

There is a letter from the Ministry of Labour that's been passed out to all the committee members that will try and help address some of the questions that were raised on Monday.

#### BEYOND ABILITY

**The Vice-Chair:** Our next presenters are from Beyond Ability consultants. Good afternoon and welcome to the committee. Just a reminder that you'll be allowed up to 20 minutes for your presentation. The committee would appreciate it if you would leave a few moments for comments and questions from each of the caucuses.

**Mr Gerald Parker:** I would ask that you give me a five-minute warning so that I can wrap up and allow time for the members to ask pertinent questions.



**The Vice-Chair:** Sure. Please identify yourself for the record and then proceed.

**Mr Parker:** Certainly. My name is Gerald Parker. I can be known as the executive director of Beyond Ability, which is a volunteer organization that I put together to effectively advocate disability issues. I'm also an academic in political science and, most importantly, an injured student worker presently undertaking the completion of my degree under the auspices of the Workers' Compensation Board's vocational rehabilitation services. I speak as a professional; I speak as an academic who has conducted research into the Workers' Compensation Board of Ontario; but most strongly I speak as an injured worker who has had my dignity systematically stripped from me by the WCB and its unaccountable and unrealistic practices.

When a person is injured while employed in Ontario, the Workers' Compensation Board becomes involved to supposedly assist the worker and the employer in evaluating the injury, providing financial and rehabilitative assistance and to facilitate administrative and statutory duties, thus theoretically assisting the worker and the employer for a hasty recovery and reintegration into the workforce.

The Ontario Workers' Compensation Board is a provincial statutory corporation that is financed through employer contribution by means of a percentage of the company's payroll on an accident-rated regime.

The policies and procedures of the Workers' Compensation Board are predicated on the Workers' Compensation Act. The provisions of the act generally pay a percentage of the pre-injury wage to the worker until they are medically able to return to work or a pension is arrived at. The act also gives the Workers' Compensation Board sweeping statutory powers and the utmost autonomy from government. The consequent unrepresentative and unaccountable behaviour completely compromises the application of perhaps a well-meaning and economically sound social assistance program.

The reality is that the WCB has become a humiliating, degrading, inconsistent and badly administered institution that deliberately creates unreasonable obstacles and desperation for injured workers, the very people the board is mandated to assist and to whom they relinquished their legal right to be protected by. This is not the quid pro quo assigned to the relinquishment of legal rights for statutory rights under the Workers' Compensation Act.

On September 13, 1987, I was involved in an industrial accident while performing extended seasonal employment. Due to economic realities, I had to obtain full-time employment both in the summer and during the academic year since the age of 14 years. The accident immediately physically incapacitated me and served to temporarily end my academic endeavours. As the accident was work-related, I naively allowed the Workers' Compensation Board of Ontario to become involved, to primarily offset financial loss and to assist in the medical evaluation of the injury and to additionally aid in the recovery period. As the past statement appears quite positive, in actuality, the process of the Workers' Compensation Board sought to undermine any progress made, medically or otherwise,

in my case. What took place in reality was a system that served to the demise of my medical and financial predicament and which further aggravated a painful and humiliating situation. This is the common experience of most, if not all, injured workers.

We cannot lose sight of that. Never lose sight of that. These are the people that have been mandated to be assisted. They are not a fiscal tool for the government for success and economic competitiveness. They are people. They are not numbers.

I have chosen to fight when I have been adversely affected by negative decisions rendered by the board, and I can quite proudly say that despite the periods of utter desperation that were deliberately thrust upon me, I have had every negative decision reversed, as completely absurd, frivolous and manufactured as they were. Although I have never been able to hold a single employee or contracted person of the Workers' Compensation Board accountable yet for the injustices perpetrated upon me because of the specific legislated absolution enumerated in the act, I continued in a principled manner. However, I am a very well motivated, resourceful and educated person, some might say an anomaly within the WCB system, and justice will be sought in time.

Unfortunately, most clients of the WCB cannot or are unable to contest adverse decisions rendered against them by the board for numerous reasons, much of which can be primarily attributed to what I term systematic methods of attrition that the board utilizes. Furthermore, I am sure that each and every injured worker that has presented before this committee has been mindful of the retributive practices of the board, a submissive expectation that I have never apparently cowarded to. It is because of the appalling facts of inhumane, indignant injustices that are perpetuated, that are perpetrated by the WCB and its employees on decent people, not laggards, that I have become so actively involved.

The committee has been privy to many passionate and desperate deputations of injured workers and their representatives. You have heard it in their crackling voices. You have seen it in their tearful eyes and the utter desperation that these people are purposely and consistently subjected to by the WCB and unethical employers who want the act and the WCB to be a fiscal tool for their success.

At this point, without great elaboration, I will personalize this deputation and share with you some of the incredible injustices that have been thrust upon me by the WCB. This selection of examples that I have chosen will outline the major areas of concern and then conclude with some interim recommendations for the committee to consider. I will not remark directly upon the bill. Suffice to say that any enactment that does not deal realistically with the critical state of the WCB and does not entail a humane and dignified approach to injured workers will never be an honourable representation of the human and legal rights of people whose lives are systematically destroyed because of an accident at work.

As I stated, I was injured in September 1987. In 1990 I had my first major back surgery. To date I have had three major surgeries and now live with permanent plates

in my back. Despite my appearance, without the aid of an assistive tool I am disabled, and that is part of the discrimination that I suffered before the WCB. It was not until I personally went to the Canadian Back Institute, a private clinic, in November 1989, noting that I had been injured in September 1987, that any constructive action was taken by the board. Prior to that point, I had been diagnosed correctly in October 1987 by a medical specialist, but the board chose rather to send me to psychologists, who tried to convince me that my fractured vertebrae was in my head: My fractured vertebrae was in my head. I was dismissed with a bad attitude, in excruciating pain, to have my benefits reduced once again.

1630

This example outlines some major concerns. First, why does the board, and how can it be allowed to, dismiss credible and substantiated medical evidence for the sake of attrition by mental cruelty or other systematic methods of attrition? This practice prolongs case files and costs, never mind the incredible assault on the person's dignity and sanity. As a recurring theme that I have noted during these proceedings, sanity is a very important issue.

Furthermore, why did I have to seek professional medical help independently, which immediately made the same diagnosis arrived at two years earlier? The end result: two years of excruciating pain, two years without knowing where the next loaf of bread will come from, two years not knowing if my wife will come home to me because I am such a cantankerous, miserable individual in such excruciating and consistent pain, two years the board liked this because they wanted to hide and force systematic methods of attrition. This practice extends case files and costs, not diminishing the toll it takes on the individual, a cost that can never be measured in money. While this occurs, WCB serves the interests of the employers' unethical expectations by displacing and forcing legitimate injured workers on to welfare docketed by the systemic methods of attrition utilized and sanctioned by the board.

The second appropriate example refers to the reduction of benefits and the return to studies by students injured on the job. As it became very obvious I would be unable to do any type of manual labour, noting this reality, my orthopaedic surgeon, a very, very renowned orthopaedic surgeon, the foremost back expert in this country, and I determined that returning to studies would be constructive and necessary. Please note, however, that I had no intention of performing manual labour in my future years but I had been groomed for many years through private school and studies and scholastic awards to take part in the law. I still have this intention. I had every intention of continuing on in post-secondary education while my economic circumstances dictated that I be employed full-time.

Understanding that I was a working student and that full-time employment was a necessary means to an end, I, in consultation with my medical specialist, decided that a return to part-time studies would exercise my forethought and help to divert the pain focus. I had at no time expected anyone else to absorb the cost of my education and I paid for it and undertook my studies

under my own very limited resources and physical abilities. Despite that, I had taken a step that was clearly a win-win situation for both the board and I, but the board cut me off and repeatedly forced me through the WCB circus of systematic methods of attrition every time I returned to school.

Every summer except this, I have been in hospital between terms and have continued my studies in a modified and assisted manner, to be cut off time and time again. However, the WCB needs no reason to negatively impact one's life. In the absence of fact, fabrications and distortions of the truth are routinely utilized to rationalize the driving operating principle of the WCB, and that is the systematic methods of attrition.

Why is the board allowed to operate with disdain for ethics and human rights, never mind plain common sense of well-motivated, honourable clients and the expertise of specialists? This leads to the next example. I can best do this by way of correspondence that was directed to the board upon one particular assault on my dignity and rights.

This is a letter dated 1993, the ninth month, the 28th day:

"Dear Mr Gowans:

"As in the past Mr Gowans my only contact with you has been under unfortunate circumstances. You are, by now, well aware that I will not accept, for a moment, the improper treatment of myself or my file. I am sorry to inform you that this is the reason for our communication, yet again. I am extremely angry and my dignity, once again, has been very seriously offended. It is in this context in which I am forced to unnecessarily battle your department and employees once again for my needs and dignity.

"There is a direct causal relationship, if you have not realized this yet, between the unethical, unprofessional, and immoral treatment of myself and my file and the necessity for holding your employees responsible and accountable for their behaviour. Although employees of the Workers' Compensation Board, Mr Gowans, are seemingly unaccountable as a 'schedule 4' entity, and...be accountable and ethical in its dealings I would have no reason to take issue. But, considering the Workers' Compensation Board in my extensive experience insists on being so inhumane and indecent, no matter how it is shrouded, I will always be a thorn in the board's side until I, as a reasonable person, considers that my interest as an injured worker is being served by the heartless bureaucracy established and mandated to assist not hinder my progress. Whenever I interact with the board I will always take the position of protecting the genuine interest of my disability, and in my assessment, imploring upon board employees ethical and professional treatment of all clients. Granting that I am much more informed of the boards mandate, the particular legislation, and regulations that govern your affairs—I am compelled as a humane individual to permeate the boards entrenched mentality in the treatment of clients. Idealistic—perhaps, decent and moral indeed.

"With that being stated for the record the primary purpose of this correspondence is to appeal the decision



of the pension assessment rendered by a Dr K. Baichwal," assigned to the Toronto south integrated services, dated August 16, 1993.

"I was made aware by Mrs Hoskins (client services adjudicator), during what appeared to be a meaningful meeting on the same day of August 16, 1993, that I had been assessed by Dr K. Baichwal at a pension level of 20%. This assessment was accepted by Mrs Hoskins after she implored upon me that she had no malice. Despite Mrs Hoskins statement she yet again has added insult to injury."

**The Vice-Chair:** Mr Parker, you have five minutes left.

**Mr Parker:** Okay, thank you very much.

To get to the crux of this letter, members of the committee and of the public, I was brought into an examination room, dragged around like a rag doll before my wife, humiliated before my wife to have the one statement stated to me: "You have been receiving benefits for six years and that is totally unacceptable." This is from a board doctor, one who signs a Hippocratic oath, one who is supposed to be humane.

I then stated to him: "It is unfortunate that I have had to have three subsequent major back operations and that I still have hardware in my back and that I suffer a certain amount of discomfort from it. Yes, that is unfortunate." His answer to that was, "We have been paying you benefits for six years and that is unacceptable."

The diagnosis that was rendered by that individual was one of 20%. Upon appeal, despite me showing him X-rays before his very eyes that clearly showed a medical history—I had documentation from my doctor etc etc—that man registered me at 20% pension, while 30% is the minimum under the Ontario rating schedule—minimum. These people deal even with resourceful, informed people such as myself with such malice. These people do not have the right to be called doctors, and Mr Baichwal since that date has always been referred to as Mr Baichwal. He is not worthy of his job.

Now I will finish by concluding with a list of recommendations, and then I can answer the questions that the committee may have of me.

Make the WCB accountable to the public, injured workers and the judicial process. Remove the statutory autonomy. They are not serving anybody's interest, but only their own. Disband the WCB medical practitioners. Treat each and every individual injured worker case with professionalism and respect. Allow us injured workers to feed our families and recognize the human resource that is being squandered to the interests of the Workers' Compensation Act policies as a fiscal tool for economic competitiveness. And sixth, that a royal commission be struck and mandated to thoroughly investigate the practices and affairs of the WCB to produce an effective and much-needed meaningful change.

1640

This is my submission before the standing committee. Thank you very much for your time and your indulgence. I now would certainly like to entertain your questions as best as I possibly can.

**Mr Mahoney:** We're here to deal with Bill 165. I appreciate the fact that you've given us yet another example of the ineffectiveness of the service delivery under the Workers' Compensation Board.

I was sitting here thinking to myself, though, that it's like this in every province in the country. It's quite interesting that you have a system designed in 1914 with merit, with some good, commonsense ideas, protection against lawsuits. We see the lawsuits. Someone referred earlier to the spilled coffee cup generating \$3 million in the States. That obviously is not a sensible solution. So there's a lot of good in the original recommendations of Justice Meredith following his royal commission in 1914. But it simply doesn't work for anybody anywhere probably on the continent, but let me at least say with my experience, having travelled the country on WCB issues, it doesn't work anywhere in this country as far as service delivery is concerned.

You recommend, "Remove the statutory autonomy." Are you suggesting that government take over the role and that government be directly responsible and liable for things like the unfunded liability, for things like increases to pensions, and that the entire act be repealed and it be put in the hands of the politicians?

**Mr Parker:** Yes, it should be repealed, and I would make one challenge, because although Justice Meredith's intentions and original intent were worthy, the actual practice and application of the Workers' Compensation Act, and more importantly the operating principles of the board—because although the act gives forth a structure for them to then subjectively interpret their own practices, there is no government control over them. If it is, it's negligible at best. If the government—if they cannot be held accountable under the present structure, a different structure, a more worthy structure, has to be constructed. Without that, then we'll continue to be in a disarray.

I make one challenge. It is the private sector or the "employers" that are going on and complaining and complaining about the state of disarray, the fiscal disarray. I will not negate that point, okay? The point being is that if they are so concerned, remove the act. I would be the first one to take my employer to court, because the money that I get would be certainly more than \$600 a month that I receive now, which is 90% of minimum wage. I have a family. I have a son. I was never meant to haul cases of beer around. I was there for a summer job. And if the employers would then so choose to repeal the act and then take a pure litigation approach, I would encourage that, because those very same people would be back at this table crying with Kleenex boxes that you could not supply them enough with.

**Mr Mahoney:** No, they wouldn't; they'd be out of business.

**Mr Parker:** Well, that's your interpretation, sir.

**Mr Mahoney:** They'd be out of business, because you'll win.

**Mrs Witmer:** Thank you for your presentation. I have no questions.

**Mr Daniel Waters (Muskoka-Georgian Bay):** I wanted to touch quite briefly on the return to work,



because it's been talked about quite a bit. You've read the proposed bill. I just wondered if you had anything that you wanted to add to return to work, because you're a person who's attempted to in different lights.

**Mr Parker:** I will speak particularly of myself as it pertains to the return-to-work provisions under the act. I, as a student—and I said to you at the beginning of this presentation, I can be known as the executive director. I have to undergo this as a volunteer organization because the WCB cannot or does not have the forethought or the progressive and constructive mentality to recognize that they are students out there, they are people out there that want to address their injury, that want to move on with life. I have done this. I returned to school; I was cut off. I took partial studies; I was cut off. I was primarily a full-time student before. I was cut off every step of the way, despite medical evidence, despite compelling evidence to the contrary against their negative decisions that had no basis in fact.

But the point is that I as an individual, as a motivated individual, have only wanted, as most, to minimize the impact of this injury through fault of my own. I was in the wrong place at the wrong time and I should not be victimized for that. It is not my fault that an accident occurred. There could be arguments to the contrary, that perhaps employers are more to the fault of the accident. However, let's not discuss that point now. The point is that there are incredibly motivated people who are increasingly put into very, very desperate situations. Their energies, their abilities are diminished, they are dictated to and they have to deal with the board in a very subservient manner. If they take a tone as I have, an assertive one, they are victimized because of it.

They have to realize that there are other people in this workplace, in the system, most of whom only want to have gainful employment. They're not laggards. As I have seen, and as the name of my organization clearly states to you, it is beyond ability. A person who has an injury, a person who has a disability has to get up every morning. It takes much more motivation, much more energy to have to deal with life and the challenges before them with marginal functionality. They have more to contend with with less energies, with less ability, and it's unfair that the WCB would try and victimize them through their systematic methods of attrition for being forthright, for having forethought, for being progressive and noting their situation for what it is.

There was no question that I would be unable to do manual labour, but I noted the fact that I had no intention of doing that. I am going through school, as I will continue to be, to become involved in law. Now, why should I be put in the front store of a Shoppy's mart? I have much more ability than that.

They in no way attempt to even come close to recognizing the resource, the potential, the abilities of the people they have sitting right before them. They're nothing to them. They are a number, and as I clearly state each and every time that I contact the WCB, when they say, "Claim number," I say: "My name is Gerald Parker. The number that is assigned to my file is—"

I am a person. They cannot recognize people. Distanc-

ing themselves from people allows them to rationalize the injustices that they bring upon people, whether it be an injured student worker etc.

**The Vice-Chair:** Thank you for your presentation today.

UNITED STEELWORKERS OF AMERICA,  
RETAIL WHOLESALE CANADA,  
CANADIAN SERVICE SECTOR DIVISION

**Mr David McCormick:** I'm Dave McCormick and I'm here on behalf of the Retail Wholesale Canada, Canadian service sector division of the United Steelworkers of America. We represent approximately 20,000 workers in the province of Ontario, some 15,000 of whom are currently eligible for compensation benefits under the act.

As a service organization, we tend to look at the human element of the legislation. As an organization, we are here to say that what we require for our members is financial security, the right to return to work and vocational rehabilitation services. Our organization supports the amendments as proposed by the Ontario Federation of Labour to Bill 165, and subsequently Bill 165 and the royal commission itself.

I've been asked to speak to this committee because of my personal background with compensation. For the past two years I've been representing workers within our organization in front of the board. But, as a preface to my comments, I think it's only fair to say that those workers I actually speak and deal with are those workers who have run into problems with this system, which is a small percentage of the actual workers who are injured on the job. Those workers I represent are the ones with problems and concerns. I'd like to share some of those experiences with you.

1650

When it comes to reinstatement or the right to return to work, workers who do not return to their accident employer are, for all intents and purposes, competitively unemployable. To a worker who does not return to the accident employer, his life and his family's life is destroyed.

In my dealings with employers, I have to tell you that I've had two reactions since Bill 162 was put in. I have had a positive reaction from employers who will bend over backwards to do everything within their power to return an injured worker to work. I have dealt with employers who will modify and accommodate the job and who will modify the hours, who will speak to the employee and treat him like a human being. They will do whatever they possibly can to get that worker back to work.

But I have also dealt with employers who would turn their back on the injured worker, who could care less if they were fined under the current system, who will put up every obstacle in their path to make certain that worker does not return to work. With those employers, our organization is prepared to file grievances. We have filed grievances and we are prepared to use the Human Rights Code to make sure that they return to work. But that is a negative employer, from our perspective.

When I look at Bill 165 and the amendments that are coming through for it, for those positive employers that I deal with, those employers who are willing to return the employee to work, I don't see the reinstatement changes as being negative. I don't see the fact that their NEER system is going to be affected, that their Workwell system will be affected; what I see for those workers is not going to make a difference, whether that legislation is there or not, because they're already going out of their way to get these workers back to work.

But those other employers I have to deal with damn well deserve the legislation. They deserve to have their ratings affected. They deserve to be penalized. They do not deserve the same rights as those employers I deal with who are going out of their way to help the injured workers.

When I look at vocational rehabilitation and medical rehabilitation, I have concerns from dealing with injured workers. Specifically within medical rehabilitation, one of the concerns I've had to look at is the time from which something is diagnosed to the time the board takes action. I've dealt with workers who've been recognized to have chronic pain disability but they did not meet the strict criteria of marked-life disruption under the board's operational policies. There's a time period that goes by that you have to show that the chronic pain disability is compensable. That time period may be a year, it may be a year and a half or it may be two or three years. The medical profession has recognized that if you're going to deal with chronic pain, then you deal with it within six months or it becomes mindset and it's almost impossible to cure.

I deal with workers requiring extended physiotherapy. Under the operational policy, they're allowed first of all six weeks and then six weeks; you have a 12-week period which basically you don't have problems getting. It's when you require extended physiotherapy that the problems begin. The problem is, from the time it's requested to the time the board approves it, you end up with a period where that worker has not had the physiotherapy he requires, and when that worker doesn't have the physiotherapy he requires he relapses. So instead of being in 12 weeks of physiotherapy and then going to 13, 14 and continuing the progress of healing, he ends up going back and starting at six weeks' worth of treatment and having to spend an extra six weeks in the system because of a time delay.

When I look at compensation, a lot of what I'm looking at is the operational policy, and the guidelines are sometimes too narrow. I've dealt with employers on this, and when employers have a problem—these are again what I refer to as the good employers—I've seen them turn around and say: "Look, we realize you're having a problem with physiotherapy. We're going to send you to the Canadian Back Institute. We're going to get you the treatment so that you can continue to get back to work."

From those employers' perspectives and from mine, the guidelines are too narrow to deal with, which is part of the reason why I believe that a bipartite committee, a committee dealing with employers and labour representatives who are used to dealing with the problems of

compensation, who are used to dealing with the problems of injured workers, can help, possibly, to change some of the guidelines that are causing a cost to the system.

But I think from my perspective, when I look at a cost on the system, when I look at a financial impact on the system, I've heard a lot about unfunded liability. What I haven't heard is the financial impact of the system upon workers. It's been my experience to deal with workers whose lives have been turned upside down because of fighting for compensation claims, fighting for their money, fighting for what is rightfully theirs. I have dealt with drug abuse. I have dealt with alcohol abuse, wife-battering, children being basically left out in the cold, family breakdown, workers who have lost their homes; workers who were prepared to retire have lost their life savings and now must continue to work. I look upon the system as the financial impact that it's had upon these workers.

When I talk of unfunded liabilities in billions of dollars, I don't know how I can put a price tag on a human life or a family. I believe that when we look at the system as a whole, we have to look at ways of preventing this tragedy both to the employers and to the workers, and I believe there is only one way to do that: through the prevention of accidents, and the other way, quite frankly, to address this system is to return injured workers to work. Unless those two criteria are met, you can pass any legislation you want; you're going to be dealing with dollars and cents rather than human beings. I particularly believe that this legislation was originally drafted and should continue to be drafted to protect injured workers as well.

**Mr Mahoney:** Thanks very much for your presentation, David. I want to ask you a little bit about what Bill 165 does for the prevention of accidents, because I don't really see anything in there. In fact, perhaps I'll do that first and then I want to go on a little bit about the return to work.

Everybody who's ever been involved in or studied compensation, and obviously you're quite knowledgeable in the area of compensation, recognizes that preventing accidents, improving safety in the workplace, health and safety training, committees, all that kind of thing—both management and labour are buying into it—prevention is the ultimate key, particularly when you look at the fact that the average cost of a claim in Ontario is double the national average. In Ontario it's \$24,000; across the country the average is \$12,000. Do you see anything in Bill 165 that gives any employer, and I would include unions as employers, any incentive to try to prevent accidents?

**Mr McCormick:** From my experience out there, those employers who are concerned about their costs are already putting these programs into place. What I look at within Bill 165—and I'm not certain; I'd have to look up the number—when you're looking at your experience rating, take a look at the preventive measures that are in place: Is the return-to-work program jointly organized from a union perspective so that you have union and management workers both trying to get people back? And by tying your rebates or your financial picture into that,



you're making an incentive there. But more particularly in that, what you're doing is to deny the incentive to those employers out there who right now are simply hiding claims. I had a call from a young lady out in Ottawa two nights ago asking me about compensation. What she told me was that 14 people had been injured in her place of employment. One had been knocked unconscious for a matter of about three minutes, and the employer said, "Let's not report this to the WCB." That's how they're managing their costs. They're not managing them through health and safety and they're not managing them through returning workers.

1700

**Mr Mahoney:** That would then suggest to me that the problem lies more in the ability to investigate and seek out these violators, to enforce the laws as they exist today. So the government's answer in Bill 165 is to put in place punitive measures so that it can go out and do audits. I somewhat facetiously say that most businesses that came before my committee, when we travelled, indicated they'd rather have Revenue Canada and the Gestapo come in and take a look around than to have the Workers' Comp Board come in.

So there is some concern that all of a sudden you've got the WCB police coming in. This is what they fear, and the interference and then the punitive as opposed to a real incentive program, and you very fairly point out that there are a lot of compliant and good employers out there who are doing the good things. Why should they be penalized by this?

**Mr McCormick:** I don't think they would be penalized. I think these good employers are already complying with more than what this legislation is saying, from my perspective. It's the ones who aren't complying that have got something to fear and they should have something to fear. They're the ones who are causing an overall cost to the whole system.

**Mr Turnbull:** Sitting through these hearings you hear the two sides being presented. The gulf that exists between the two parties at this moment is quite alarming.

As you know, there was an agreement almost made between the union representatives and the employers which was undertaken at the request of the Premier. A lot of that bipartisan agreement has been cherry-picked from this. From the employers' point of view, they believe that with the agreement they made they gave up significant things in order to get other issues.

Would it not seem reasonable to you, given the fact that most of the labour representatives who have appeared before us are also unhappy with elements of this bill, first to have the royal commission report and then do the proper job on fixing the WCB, because you've pointed out some areas where you have concerns?

**Mr McCormick:** I think the bill already addresses a number of the areas, from our perspective, that there are concerns with. I think with the royal commission and that, part of what they have to be looking at is a much broader perspective, such as universal disability, how your different plans are affecting how private coverage, unemployment insurance and everything are doing and

maybe in those terms looking at it from a royal commission.

But currently, right now, I don't think labour and working people can afford to wait for two or three years to have the system adjusted. There have to be some interim measures now. I look at this as more of a fine-tuning than a cherry-picking of the actual legislation. I look at Bill 165, and the intent of the PLMAC was to fine-tune the legislation rather than to cherry-pick from it.

**Mr Turnbull:** That's certainly not what the employers' groups have indicated to us in this committee. They are adamantly opposed to the fact that they gave up certain things in respect of a quid pro quo and they believe the quid pro quo has gone.

Let me ask you then: Given the fact that it's almost a given that there will be a different government in power next year, do you not think it entirely reasonable for the government of the day at that time to go back and redo this bill—this bill's going to be passed because this government has a habit of not listening to committees; it pushes its legislation through—for the new government simply to go back and say, "Okay, we're going to enforce the quid pro quo agreement that was reached between business and labour with respect to certain elements"?

**Mr McCormick:** I guess when you're saying that the business isn't completely happy with it—I look at the Friedland formula too. Our organization does not endorse the Friedland formula. That was something we gave up, that we turned around and said is part of the compromise to put through the changes to Bill 165, that we are prepared to give up something. This isn't something that's just come down and is like a labour wish list.

As far as the government goes, obviously I'm hoping that the same government is in power a year from now and I'll definitely be going out of my way come election time to try and do what I can to get them back into power, but I don't think we should leave our mess for someone else to do any more than I'd hope that the governments left everything in the past for the next government. Maybe they'll do it or maybe they won't. I think it's time someone took the bull by the horns and I think this government's done a good job.

**The Vice-Chair:** Mr Ferguson.

*Interjection.*

**Mr Ferguson:** Maybe I should quit and let Mr Turnbull continue.

**Mr Turnbull:** Every time you speak you do us a favour, Will. Just keep going.

**Ms Murdock:** People in glass houses shouldn't throw stones.

**Mr Ferguson:** My question to the delegation simply is this: On balance, do you think Bill 165 is fair?

**Mr McCormick:** On balance, I think Bill 165 is fair. I think there are a few things that may need more of a fine-tuning that the Ontario Federation of Labour has basically proposed in its amendments, and I certainly don't want to reiterate them. I'm sure you'll hear them enough. I believe it's a fair bill.



**Mr Klopp:** I think you've brought out both sides of this story. Many groups have their view and, as happens in committees, that's what they're here—people put their side very clearly out and I think you've been probably more fair than many, realizing that you've seen the hardships. I appreciate the comments you've made.

I think you've brought forth, as have a number of others, about the royal commission, that it should be a commission that gets on with the work and I trust the royal commission will be started soon. Of course, it will take a number of months to get through, and I hope whatever happens down the road—and I hope we are the government that's here because I think we've shown that we want to take this seriously, and we've done that. But I really do want to say that this royal commission should take seriously all your concerns, and really look at the whole issue and really make a better program. It was started back in 1914 and it's had its ups and downs, but it definitely needs to be working for the injured workers.

**The Vice-Chair:** Ms Murdock, 30 seconds.

**Ms Murdock:** No, it's okay. I just want to thank you very much, very appealing.

**The Vice-Chair:** On behalf of this committee, thank you for the presentation.

#### KITCHENER-WATERLOO-CAMBRIDGE INJURED WORKERS GROUP

**Mr John Sweeney:** My name is John Sweeney, president of the Kitchener-Waterloo-Cambridge Injured Workers Group and vice-president of the Ontario Network of Injured Workers Groups. I should say that I thought I'd be able to find a better thing to do today than sit here, this being my birthday, but here I am.

**Interjections:** Happy birthday.

**Mr Sweeney:** Thank you. I also never thought I'd be back here before another committee on another workers' compensation bill, and here we are also.

**Vocational rehabilitation and re-employment:** Problems of abuse of vocational rehabilitation programs being dropped—employers say they have modified work available. The injured worker goes back to work and gets laid off or fired. This is a common problem with Bill 162. Legislation must be enacted to ensure that injured workers, even if laid off or fired, continue vocational rehabilitation until suitable work is found.

Workers' compensation tends to send injured workers to business colleges that are not recognized in the workforce and do not cover the skills needed to obtain the job specified. Injured workers who have completed their retraining programs are sometimes sent to only a job search that in many cases is a total waste of time and money.

1710

Potential employers tend not to hire injured workers because they believe that this will affect their worker's compensation premiums, which is mythical. Somehow, they must be informed that a recurrence of an injury reverts back to the injury employer and will not affect them.

Vocational rehabilitation and re-employment continued: Bill 165 is weak and futile, with some small improve-

ments. Employers, it appears, will have direct access to physicians' and injured workers' medical records. They already have that. Under Bill 162, they have the right to ask for an injured worker's file. If the injured worker refuses, the employer gets the file anyway, so I don't know why it's even in this Bill 165.

The responsibility to get injured workers back to work: the employer will direct the physician to. In other words, the physician's role will disappear. The employer will dictate the terms when the injured worker goes back to work, not the family physician or specialist reports, which are ignored at the board anyway. Junior adjudicators at the board override eminent psychiatrists, eminent surgeons; a junior adjudicator at the board overrides the decision. So again, we have a major problem—I heard it mentioned earlier—with the medical staff at the board.

Employers will push the physicians into returning injured workers back to work before they are physically ready. Injured workers will finish up dealing with the employer, not physicians.

Deeming, which incidentally is not mentioned in Bill 165—to my knowledge, it has never been mentioned. Injured workers have fought against deeming for—I don't know, I've been fighting it for 12 years. The last government in power said it would address deeming. They introduced Bill 162. We all know what happened with Bill 162; it was the worst piece of legislation that was enacted this century. What we are seeing today in injured workers' offices is the fallout of Bill 162.

I'm straying away from this because I think you can read it for yourself. I know my English is terrible at times, you will agree.

**Injured workers and deeming:** We have fought deeming for many years. It was to be addressed by the last government and, as I said, it was never addressed; it's not addressed in Bill 165. Deeming is a barrier to good vocational rehabilitation. Good rehabilitation in the long run saves money.

Injured workers are for ever hearing about the unfunded liability, which happened—it only cropped up since the new government was elected, approximately two years ago. I had very seldom heard of the unfunded liability until the NDP was elected approximately two years ago, three years ago. Injured workers are not responsible for the unfunded liability. To my knowledge, the Workers' Compensation Board of Ontario is sitting on \$6 billion. I don't think there's another corporation or industry that's sitting on \$6 billion. Its access is \$6 billion.

The injured workers get it in the neck every time. The last two governments have done it and hopefully this government will have some compassion. We have never asked for much: to be treated with dignity and respect and fair benefits, fair compensation. We gave up the right to sue. If we don't get fair benefits, then put in a clause in the act that we have the right to sue again. When the workers gave up the right to sue, they saved employers billions of dollars.

Health and safety is important, vital. Some employers are complying. Some employers, incidentally, get

rewarded for accidents, saved time etc. Hundreds of thousands of dollars are paid out for this that could go to—I'm not saying that you don't earn it, but a lot of employers cover up. When an accident happens in the workplace, the employers say: "Don't report it to compensation. We'll look after you." It's never reported to the board. Then two years down the line, injuries deteriorate and then the injured worker's in trouble. The board has no record of an accident. The employers will tell them to go on to the company insurance plan, long-term disability. If it's a long-term injury, there are problems down the line.

Injured workers are up to here with what's happened. Lives are ruined, destroyed: alcoholism, child abuse, dog abuse, animal abuse, wife abuse, husband abuse, which is odd, but it happens. I have people who come into my office who are awarded \$3 per month—nil award—\$9 a month. If you've become 18 years of age, the board will not retrain 18 years of age. They don't say it, but at one time you were too old at 40. I think they've upped it to 50 now. I'm not quite sure.

I had a question for Mr Mahoney. I see he's not with us, which is sad, but I'll ask the question anyway. What are the Liberal government's plans? Are they going to increase benefits? Are you going to decrease benefits, or are they going to decrease employers' contributions or increase? I ask the question.

Bill 162 devastated injured workers. There is a slight improvement in Bill 165, but I think it needs a lot of work. We were never consulted on Bill 165, or very little consultation. We meet with Mr Mackenzie on March 10 and, on March 11 the historical agreement was reached; we knew nothing about it. We have consulted with the government and with the Workers' Compensation Board through the network for five or six years, so it was a surprise when I got a call saying that a historic agreement had been made.

I think I'll let it go at that because I'm inclined to get a wee bit—what do you call it?

The \$200 increase—I knew there was something vital. As far as injured workers are concerned, the \$200 is a carrot. Forty thousand workers they estimate will get \$200. If they're in receipt of Canada pension, part of it'll be taken away, so they'll lose. They'll get \$200, and they get \$380 Canada pension disability, so they'll lose \$180. That's a savings to the board and to employers.

Every older injured worker in the province—they're not old in age, but who were injured pre-Bill 162—should get the increase. No de-indexing of pensions. How the hell would you as MPPs feel if your pensions, those who will get pensions, were de-indexed, no raises? I ask you, how would you feel?

Eighty-five per cent of injured workers are living below the poverty line. We never asked to be injured. We went to work one day and it happened. That's the only crime we've committed, we were injured at work. Thank you. I'll entertain any questions. If I can answer them, fine.

**Mr Offer:** Thank you for your presentation. You've touched on those aspects of the bill that have been most

discussed. I have a question dealing with the vocational rehab aspects of the bill. The government has put a great deal of emphasis on how wonderful and needed they are, as in the bill. I'd like to get your thoughts as an injured worker as to vocational rehab as it's found in Bill 165.

**1720**

**Mr Sweeney:** As I said earlier, vocational rehabilitation in this bill is a sop. You know, it's not the answer, it won't give you the answer, but it's a farce. Up until Bill 165 was introduced, there was really no vocational rehabilitation at the board. Vocational rehabilitation counselling—no rehabilitation as such. To send an injured worker down Yonge Street knocking on doors looking for a job pumping gas—now that's not vocational rehabilitation.

**Mr Offer:** Let me ask you: In your presentation you indicated that right now, if a worker does not participate with the board, they get cut off and there's no need for particular sections in this bill because it's already the practice of the board. I recall you saying that. Could you expand on that?

**Mr Sweeney:** I think you're making reference to the access to injured workers' files?

**Mr Offer:** Right.

**Mr Sweeney:** As it sits right now, the employer has access to injured workers' files.

**Mr Offer:** Well, then, why don't we use this and use the opportunity to ask the government why there is the need in Bill 165 to restate some of the aspects that have been brought forward by the presenter? Maybe we can use this time to clarify the issue.

**The Vice-Chair:** Ms Murdock.

**Ms Murdock:** Sorry, I wasn't listening.

**Mr Offer:** I think ministry staff were listening and the issue was all about access. We have a presenter who says there's no need for that section in Bill 165 because it is the policy of the board at this point to basically cut off workers if they don't participate in something of this nature.

**Mr Sweeney:** You're not cut off. If the employer requires access to an injured worker's file—

**Mr Offer:** They can get it now.

**Mr Sweeney:** —if you say no, they get it anyway.

**Mr Offer:** Right.

**Mr Sweeney:** I don't know if it's board policy or if it's law, but I know they have access to the—

**Mr Offer:** Well, all I'm trying to—

**Mr Sweeney:** Sorry, I think the reason why it's been put in Bill 165 is because in Bill 162—the problem arose in Bill 162, the Majesky dual system or what. It was definitely a foulup that screwed—sorry—screwed the injured workers. I've said it, so I'm going to say it. I think that's why that provision was maybe put in—

**Mr Offer:** Thank you. I hope we can get some clarification on this as the proceedings continue.

**Mrs Witmer:** Thank you very much, John, for your presentation. You've been straightforward as always. You talk about the structural changes to the board of directors.



Am I to understand that you're not happy because injured workers are not on the board? Also, are you questioning the government being a third party? You're saying here it's "not a bipartite board, the government being the third party." Do you want to just expand? What is it that—?

**Mr Sweeney:** We fought for a long time to have an injured worker on the board of directors. We did get one injured worker on the board who was on for approximately four years, and he did a magnificent job. It's one of the toughest jobs in the world.

**Mrs Witmer:** What time period was that individual on for?

**Mr Sweeney:** During the last three years or four years of the last government.

**Mrs Witmer:** Okay.

**Mr Sweeney:** He had a tough job, he had the hardest one. Now, all of a sudden we have nominated an injured worker to replace him, and as I read it, I don't think an injured worker will be on the board of directors. As it stands, I don't know what the ratio is. It seems to be employer-labour. We, injured workers, are the major stakeholders of the Workers' Compensation Board.

**Mrs Witmer:** Well, why would labour not include you as one of their members since you were part of that labour force?

**Mr Sweeney:** I don't really know, but maybe it will come up in the near future that they would consider having an injured worker back on the board. As it's set up at the moment—I'm not too sure if it's finalized. But we were quite concerned. We want an injured worker on the board of directors. We fought a long time to get it, and hopefully we'll get it. I don't really know. Hopefully, we will get it.

**Mr Ferguson:** John, we appreciate your straight-from-the-heart presentation today, as well as the written comments that you provided the committee. I want to inform you that the Liberal Party supports the government on the Friedland formula. You asked the question, where do they stand on the particular issue, and according to their Back to the Future report, what they say is: "The Friedland formula, as proposed by the management caucus of the PLMAC, be applied in the calculation of all future and past benefits. It is estimated that this will reduce the unfunded liability by \$3 billion a year."

I know that question was important to you, so I wanted to advise you of that.

Are you aware, John—you spoke briefly about the \$200 pension. One of the many issues that this committee will deal with will be the whole question of the \$200 pension and who that should be extended to. There's been a number of suggestions by individuals who have made presentations, much the same as yourself, before this committee and they have suggested that we ought to be expanding that to include everybody and not just a select few.

**Mr Waters:** I had a couple of things I wanted to ask you about. Employers keep talking about cost. I came out of the labour movement and I can recall having employers saying, "We're going to fight every compensation claim that comes before us." A person can lose an

arm; they're still going to fight it. Wouldn't you consider that and the fact that every time an employer phones the compensation system—from my days anyway, unless it's changed—it used to result in a series of phone calls because the cheques were held up from four to six weeks. Wouldn't you consider that as part of the cost, that it's actually adding to the cost of the compensation board?

**Mr Sweeney:** Certainly, it adds to the cost. I won't mention companies, but there are two companies locally where I come from that every time an accident occurs and they fill out the accident report, stapled on to the accident report is "We object to this claim." Two major companies in Kitchener-Waterloo, that region.

**Mr Waters:** So it adds to the cost.

**Mr Sweeney:** That's cost. Monthly statements that the board sends are worth some money to employers.

Not only government, but I think MPPs are elected by the people. On injured workers issues, you should sometimes listen to the injured worker. Believe me, we can save you money.

**The Vice-Chair:** Thank you very much.

**Mr Sweeney:** But listen—sorry. You cut me off right there.

**The Vice-Chair:** On behalf of this committee, I'd like to thank the Kitchener-Waterloo-Cambridge Injured Workers Group for the presentation this afternoon.

Ms Murdock, do you have a response for Mr Offer?

**Ms Murdock:** I wanted to apologize to Mr Offer for not listening to his words when he was asking questions, but I would direct him to section 71 of the present act in terms of access to records. That's all.

**The Vice-Chair:** Okay, thank you.

1730

ROSA BALUMBA

**Ms Maria Moschella:** My name is Maria Moschella. I would like to present Rosa Balumba and Crystal George. At this point, Rosa is going to present her case.

**Ms Rosa Balumba:** English is my second language, so please be patient with me. I had help getting this presentation together, but it is my story and my pain.

My name is Rosa Balumba, and I am an injured worker from Oshawa. On February 6, 1973, I started working for Sklar-Peppler as an industrial power sewing machine operator. I did piecework, and I worked mostly with leather.

This is a very difficult job because the leather has to be forced through the machine. At the same time that I push the leather I have to turn the material in the making of cushions. This puts a lot of stress on the legs to hold the pedal down and even more stress on the hands, arms, shoulders and whole body because I have to push and turn the material at the same time.

In 1987, I started having trouble with my wrist and arm. I went to see my doctor, and he told me it was because of my job. I did not file a WCB claim because I did not know what WCB was and I did not want to lose my job. From 1987 to 1990 the rest of my body started falling apart. I had a variety of physical problems such as inflammation and severe pain in most of my body, but



the worst has been my right knee, ankle and foot.

From 1987 until 1990 I continued to work without complaining, because I was afraid I would lose my job. I need money to live, to put food on my table and a roof over my head. In 1990, just before my holidays, my pain and suffering got really bad. I thought that after resting for my four weeks' holidays things would be better. The day I was supposed to return to work I could not get out of bed. My body could take no more.

I was on sick leave for a couple of months. When I saw my specialist, he told me to file a claim with the Workers' Compensation Board. My claim was denied. I asked my adjudicator why. He told me my employer denied the claim and if I didn't like it to appeal.

Appeal? What is an appeal? I did not know where to start. I was afraid to talk to my employer because I didn't want to cause trouble for fear I would lose my job. My union was no help. So I started going from WCB appeal representatives to lawyers. The appeal takes a long time. I got no money, so in May 1992, I tried to go back to my old job. For four weeks I tried, but the pain was too much.

I sit before you today waiting for my appeal before WCAT. The only money I get is \$600 a month Canada pension. I was making \$1,500 a month working. How am I supposed to live? I've spent over \$10,000 of borrowed money on lawyers, and still I'm not finished. For 20 years I worked hard, destroying my body, for what? The WCB is to look after me, but the employer doesn't agree with the claim and I have to appeal. I pay my taxes, and I help my company get rich, but what do I get? Nothing, just stress. My injuries may not kill me, but the stress will. Where are my rights as a Canadian citizen?

In Bill 165, the purpose of this act is to provide fair compensation. This is fair? My claim was denied. I have to appeal. I have no job security. I have no right to modified work. I have no rights at all. Maybe if we had a few injured workers on the board of directors some changes would be made and enforced so that you can get fair compensation. I cannot wait any longer; something has to be done now.

**Mr Offer:** Thank you for your presentation. I don't necessarily have a question, but rather a comment based on what you have said. I think that the presentation you made, speaking about your personal experience, is important for us in this committee as we deal with this particular piece of legislation. One of the things that underscores the importance is that the bill is silent in terms of how the WCB itself administers and looks after claims, how it deals with the people who, through no fault of their own, have been injured on the job.

1740

I think a presentation such as you yourself have made today is one which puts an added emphasis and impetus on the need to change the board so that we are absolutely certain that the best, most experienced individuals are dealing with claims such as you have brought forward. It sometimes takes presentations such as yours and the courage that you have in coming before a committee to show us in a real way how important that is, and I just

wanted to thank you for taking the time.

**Mrs Witmer:** Thank you very much for what I know was a very difficult presentation on your behalf. It's unfortunate that all of the individuals such as yourself who come before us feel that you need to apologize for your English because it's your second language. I would encourage you not to. Many of us in this room are immigrants like yourself and some of our parents experience the same language difficulties that you do. Certainly you don't need to feel any different than any of the rest of us. We appreciate the effort that you've made.

**Ms Balumba:** Thank you.

**Mrs Witmer:** I guess I'm really quite surprised because it's unfortunate that your employer denied your appeal, but you also indicated that you've had no help from your union. What union represented you?

**Ms Balumba:** Steelworkers of America.

**Mrs Witmer:** And you got absolutely no support?

**Ms Balumba:** Nothing. I got fired when I came back to work because they say I can't make my time, and I was very close, with my pain, to making my time. When I worked over there, I was only part-time and good worker. They give the job because I made special work for the showroom. And after that, what I got?

My sons have to support me. I raised my sons, those poor children. Even when they were 18 years old, they go to school, they got jobs, and now they have to support me, after I worked 20 years. That's fair?

**Mrs Witmer:** No, it's not fair.

**Ms Balumba:** Is the law fair? I don't expect so much, but just something.

**Mrs Witmer:** I guess I'm disappointed to hear because we've had numerous unions sit before us the last couple of days saying that they work on behalf of the injured workers, and I can't understand why the union that you paid dues to for all those years wasn't there to help you.

**Ms Balumba:** The last time I talk with them, they say: "How can I help you? You've don't have a case." "What do you mean I don't have a case? I worked there and I've got all—" When I was there, we made those big couches.

**Mrs Witmer:** Yes.

**Ms Balumba:** Really hard, and now I can't do any more. I was so good and now, you know, my arm is—I put the scissors and I can't cut any more. Over there, you know, you have to make piecework production.

Like I say, I don't understand why I don't have a case. "What do you mean?" I say. They make me more upset and now my nerves are really bad. After you raise a family nice, they fall apart. After 30 years, now we can't pay the taxes any more. My sons are helping me now. You know, they have to make their own family now.

**Mrs Witmer:** I hope that somehow—and this bill unfortunately will not address it—we can make the system, I guess, more user-friendly for people such as yourselves who don't know how to deal with the WCB system. I wish you well in your appeal and I regret what's happened to you.

**Ms Balumba:** Thank you.

**Mr Hope:** I was also going to touch on the issue because earlier today presentations that were made to us were about employers who appeal cases, and yours is one where your employer appealed and said, "This is not a work-related accident, so we're not liable," so you're not eligible for workers' compensation.

Today a presentation was made to us saying that what should be in place is a system that provides assistance to an individual while the appeal is in process. I would ask you the question because I noticed in your presentation, because of whatever circumstances, you needed to get a lawyer to represent your interests against government or bureaucracy or legislation, whatever it may be, and you had to borrow \$10,000. I just wanted to ask you a question. If you were able to get benefits while the appeal process is on, what would your financial situation be per se with the \$10,000 owing for a lawyer's fee?

**Ms Balumba:** I don't understand the question.

**Mr Hope:** Okay. Basically what I was asking is, if you were still able to receive benefits even though your employer appealed your claim, would it change the financial situation you're personally in today by still having the money coming in from WCB even though the employer has appealed that decision? I'm wondering if maybe the others who are sitting with you might be able to assist.

**Ms Balumba:** A little bit, yes.

**Mr Hope:** It's my understanding she's saying it would change her financial situation.

**Ms Moschella:** She has a problem understanding.

**Ms Balumba:** I've got a problem understanding the question.

**Mr Hope:** That's all.

**Mr Ferguson:** Thank you very much for appearing today. I think your deputation and your presentation has been very powerful before the committee and I think it indicates in many examples how the board obviously doesn't operate in order to serve the injured workers. I think all my colleagues on both sides of this committee room would share my concern that nobody should have to be put in the position where they're out of pocket \$10,000 in order just to secure what no doubt they're rightfully entitled to.

I know you touched on this very briefly, but today on the Workers' Compensation Board what we lack is an injured worker representative. Do you think that would be helpful in expressing the views and putting forth some of the real difficulties injured workers experience in dealing with the board?

**Ms Balumba:** Again, I don't understand very good. I think so.

**Mr Ferguson:** You think so. Just one last short question. I'm also kind of interested to know, did you approach your local MPP or the office of the worker adviser or any other—

**Ms Balumba:** Oh, if I have to tell my story, I'd have to be here one month for the story. I went to Mr Pilkey just two years ago, so—

**Interjection:** Who?

**Ms Balumba:** The name was Chris. He told me can't help because he can't go to the hearing. That time when I went to ask him, there was supposed to be a hearing. I believed him, so I left him. I left like that.

Before I started an appeal with WCAT, I asked again a couple of months ago—no, I asked before if I can have an appointment to meet with Mr Pilkey, and this girl, who was maybe the secretary, by phone she said to me, "What does it concern?" So I told her the story, because I've got a problem with the compensation board, and she said to me, "I have to talk with Chris." So I told her the story and Chris said they can't help me. So, after, this girl talk on the telephone to Chris, and he was so mad to me. That made me so upset on the telephone I started shaking. I have a problem with my high blood pressure real bad, and he said to me we can go to somebody, the name, but it was the group. We know this group. They don't make nothing. They just wanted the money for the group. They don't do nothing, this group. I know this group. They don't do nothing, I told him.

1750

**Mr Ferguson:** Are you referring to the injured workers' group locally?

**Ms Balumba:** Yes, some group they started in a rush.

**Mr Ferguson:** Many of them operate on a very shoestring, low budget.

**Ms Balumba:** Yes. They were really—

**Mr Ferguson:** What about the office of the worker adviser? This will be my last question, Chair.

**Ms Balumba:** Just a minute. I asked the worker adviser, and they said to me I have to wait two years to look after me. For two years, and what I understand from the people I hear on the radio talk show, the people were upset like me. Those worker advisers, they're no help, they say, I don't know if that's true or not. So after that, I decided to find somebody else.

**Mr Ferguson:** Thank you very much.

**The Vice-Chair:** Thank you, Ms Moschella, Ms Balumba, and Mrs George. Good to see you once again. Thank you very much for your presentation.

**Mr Ferguson:** Mr Chair, is that the end of presentations for this one?

**The Vice-Chair:** That's the end.

**Mr Ferguson:** One very quick request, Mr Chair, from research. We've heard a number of delegations appearing before this committee indicate that there are up to 20,000 businesses in the province of Ontario that don't pay any premiums whatsoever into the general Workers' Compensation Board fund. I think it would be very insightful if the committee had some idea what groups of employers this would cover, why are they exempt and what numbers of employees would they represent out there.

**The Vice-Chair:** I believe we already have the answer to that.

**Mr Ferguson:** Oh, we have the answer to that?

**The Vice-Chair:** That's been brought—Ms Murdock.

**Ms Murdock:** I just wanted the committee clerk to know they have copies of the statistical supplement of the Workers' Compensation Board. I've been perusing it for the past two days, and I think it would be very helpful to all members of the committee, so I've asked them to provide you with copies.

**Mr Ferguson:** Is my request contained within that, or was this another request that came forward earlier?

**The Vice-Chair:** Was there a request earlier for that information?

**Mr Ferguson:** Yes.

**The Vice-Chair:** No, but it's been brought up about the banking industry and some of the service sector before.

**Mr Ferguson:** Well, I think it would be important, Mr Cooper, to have that in writing.

**Ms Murdock:** What in writing?

**The Vice-Chair:** The people who are exempt from workers' compensation.

**Mr Ferguson:** The employers that are exempt from workers' compensation. I think it would be important to have that in writing.

**The Vice-Chair:** We have a response here.

**Mr Jerry Richmond:** Very briefly, Mr Chairman, from my general knowledge, and I'll certainly pursue this with the ministry and board officials, under the statute there are various schedules of employers. My general understanding is that under the statute there are certain classes of employers who are exempt. I will certainly get that material from the board and ministry officials and table it for your use and the committee's use.

**Ms Murdock:** If I might clarify for him?

**Mr Ferguson:** Sure.

**Ms Murdock:** Schedule 1 of the act lists all the employers who are covered. Schedule 2 lists mainly government, municipalities and that kind of thing. So you would have to sort of guess from those that are in schedule 1 who isn't in schedule 1, if you get my drift. It would be rather difficult, I think.

**Mr Richmond:** I would suspect the experts in this, when I consult with the board and ministry officials, who are here and attending the hearings, should be able to provide a memo or a list of who is not covered by Ontario's WCB.

**Ms Murdock:** I think actually it's in some of the presentations we've already had over this week.

**Mr Ferguson:** I recognize that some of the presentations have in fact touched on the matter of employers not having to contribute, so I would like research to provide that so we know a correct response rather than someone's guess or someone's—

**The Vice-Chair:** Research has indicated that he will try his best to get that information for you.

**Mr Ferguson:** Finally, in addition to that, could we just have a very brief historical perspective as to why that situation exists today? Why were these employers exempt? I think that would be important to know.

**Mr Offer:** Just as a point of clarification, with the employers who don't contribute to WCB in any form of assessment, obviously the reason is that the employees who are employed with that employer are not covered through WCB, and that is because of statute. The current government is not dealing with that particular issue, and in fact my understanding from the parliamentary assistant is that they decided not to deal with that issue and throw it over to the royal commission. And I see the parliamentary assistant saying yes, so it's your government that's made that decision.

**Mr Ferguson:** I just think it's important for the committee to have that.

**Mr Hope:** During the presentations over the last couple of days, I've heard the business communities say it's \$1 million a day, and now today it automatically grows into \$2 million a day. I was wondering, what is the actual cost factor that's there? It would be nice to know. I'm hearing the business community inflate numbers day by day, and before the end of this committee hearing process I could be up to \$15 million a day. I would just like to know for my own curiosity so the facts are before us correctly what the cost is per day.

**The Vice-Chair:** We will try and get that for you. I think the consensus is it's around a million dollars, and there are some variations in presentations.

Seeing no further business before this committee, I would remind all committee members we will not be meeting here next week, so remove all your articles. We will resume once again at 9:30 am on Monday the 29th in London, Ontario. This committee stands adjourned.

*The committee adjourned at 1757.*





## STANDING COMMITTEE ON RESOURCES DEVELOPMENT

**Chair / Président:** Vacant

\***Vice-Chair / Vice-Président:** Cooper, Mike (Kitchener-Wilmot ND)

\***Acting Chair / Président suppléant:** Waters, Daniel (Muskoka-Georgian Bay ND)  
Conway, Sean G. (Renfrew North/-Nord L)

\*Fawcett, Joan M. (Northumberland L)

\*Ferguson, Will, (Kitchener NDP)

Huget, Bob (Sarnia ND)

Jordan, Leo (Lanark-Renfrew PC)

\*Klopp, Paul (Huron ND)

\*Murdock, Sharon (Sudbury ND)

\*Offer, Steven (Mississauga North/-Nord L)

\*Turnbull, David (York Mills PC)

Wood, Len (Cochrane North/-Nord ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Akande, Zanana L. (St Andrew-St Patrick ND) for Mr Huget

Hope, Randy R. (Chatham-Kent ND) for Mr Wood

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Conway

Witmer, Elizabeth (Waterloo North/-Nord PC) for Mr Jordan

**Clerk / Greffière:** Manikel, Tannis

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service

## CONTENTS

Thursday 25 August 1994

<b>Workers' Compensation and Occupational Health and Safety Amendment Act, 1994, Bill 165,</b>	
<i>Mr Mackenzie / Loi de 1994 modifiant la Loi sur les accidents du travail et la Loi sur la santé</i>	
<b>et la sécurité au travail, projet de loi 165, M. Mackenzie</b>	R-957
Canadian Manufacturers' Association	R-957
Paul Nykanen, vice-president, Ontario division	
Maria Marchese, workers' compensation policy analyst	
Rosa Fiorentino, chair, workers' compensation committee	
United Food and Commercial Workers International Union, Locals 175 and 633	R-960
Herb MacDonald, benefits coordinator	
Ajax-Pickering Board of Trade; Whitby Chamber of Commerce; Oshawa Chamber of Commerce	R-963
Andy Emmink, secretary, Ajax-Pickering Board of Trade	
Ontario Public Service Employees Union, Local 595	R-966
Barry Weisleder, executive board member	
Council of Ontario Construction Associations	R-970
David Frame, executive vice-president	
Doug Chalmers, chairman	
Canadian Auto Workers, Local 222	R-974
Dave Thompson, manager, workers' compensation affairs	
Ontario Automobile Dealers Association; Toronto Automobile Dealers Association	R-976
Shelly Schlueter, chair, government relations committee	
Bill Davis, director, government affairs	
Ontario Professional Fire Fighters Association	R-980
Joe Fauteux, chairman, workers' compensation committee	
Quinte and District Injured Workers Group	R-983
Anne Madill, president	
Canadian Chemical Producers' Association	R-986
Jeff Murray	
Provincial Building and Construction Trades Council of Ontario	R-989
Pat Dillon, president	
Julie Nielsen, workers' compensation specialist, Building Trades WCB Services	
Alex Lolua, government relations representative	
Extendicare Health Services Inc	R-992
Gary Chatfield, president, Canadian operations	
Irene Krahn, director, occupational health and accident prevention	
Beyond Ability	R-995
Gerald Parker, executive director	
United Steelworkers of America, Retail Wholesale Canada, Canadian service sector division	R-999
Dave McCormick, workers' compensation specialist	
Kitchener-Waterloo-Cambridge Injured Workers Group	R-1002
John Sweeney, president	
Rosa Balumba	R-1004







JUL 5 1995



